

**Report of the trial of Daniel M'Naughton at the Central Criminal Court, Old Bailey (on Friday, the 3rd, and Saturday, the 4th of March, 1843) for the wilful murder of Edward Drummond, Esq / by Richard M. Bousfield and Richard Merrett.**

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# REPORT

OF THE

## TRIAL OF DANIEL M'NAUGHTON

AT THE

**Central Criminal Court,**

OLD BAILEY,

(ON FRIDAY, THE 3rd, AND SATURDAY, THE 4th OF MARCH, 1843.)

FOR THE

WILFUL MURDER

OF

EDWARD DRUMMOND, ESQ.

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BY

RICHARD M. BOUSFIELD,

OF THE HONOURABLE SOCIETY OF GRAY'S INN, STUDENT AT LAW;

AND

RICHARD MERRETT,

SHORTHAND WRITER.

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AND FANNIN AND CO., DUBLIN.

1843.



R35705

TO THE RIGHT HONOURABLE  
SIR NICHOLAS CONYNTHAM TINDAL, KNT.

LORD CHIEF JUSTICE  
OF THE COURT OF COMMON PLEAS,

MR. JUSTICE WILLIAMS,

AND

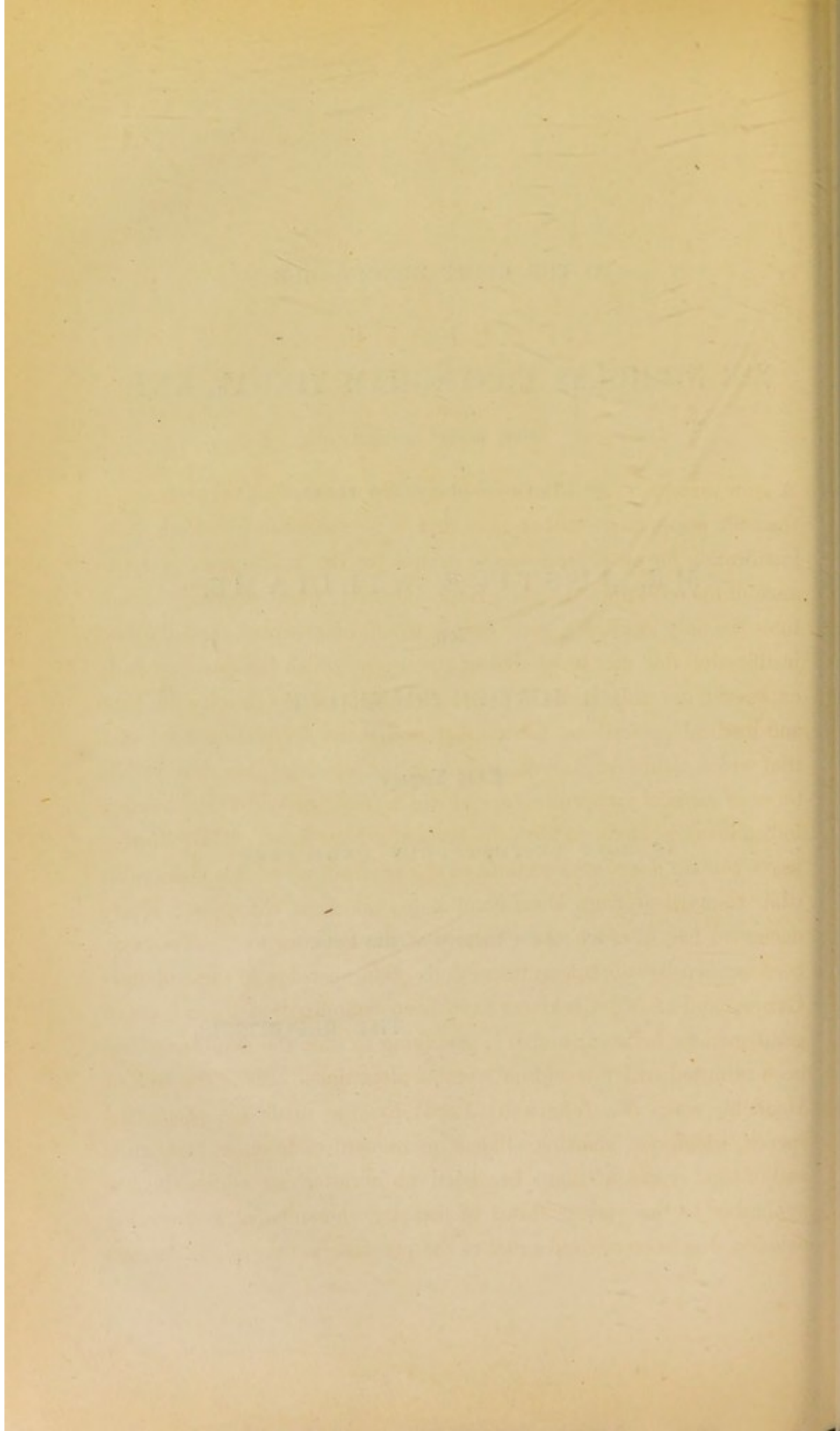
MR. JUSTICE COLERIDGE,

*This Report*

IS MOST RESPECTFULLY DEDICATED

BY THEIR FAITHFUL SERVANTS,

THE REPORTERS.





## P R E F A C E.

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A PREFACE at the best is but an apology. In works of higher pretensions than the present, an author may find it necessary to put forth some justification for publishing—some excuse for the inadequate performance of his self-imposed task. Here, however, where accuracy constitutes the only merit, no such excuse would be accepted, and the best justification that can be offered is, the desire, which has been urgently expressed, not only in the highest legislative quarters, but by the legal and medical professions, for a fuller and more complete record of a trial which claims an important place in the annals of our time and in those of medical jurisprudence, and which (from certain Parliamentary indications) is likely to form the basis of a New Law. The following pages contain a *verbatim* account of the proceedings of this memorable trial, transcribed from short-hand notes taken at the time. Every document has, through the courtesy of the Solicitor to the Treasury, been verified by subsequent inspection. The speeches of the Solicitor-General and of Mr. Cockburn have been submitted to those learned gentlemen for revision, and it is gratifying to state the manuscript has been returned with few and only verbal alterations. Since the trial of Hadfield, when Mr. (afterwards Lord) Erskine made his celebrated speech, which yet remains alike a monument of forensic eloquence and of legal research, there has been no occasion on which the law applicable to the various forms of insanity, monomania, and morbid delusion, has been elicited equal to the present. It may not be deemed

presumptuous to say that in point of eloquence the addresses of counsel in M'Naughton's case yield not to those which were addressed to the jury who acquitted Hadfield, whilst to the lawyer and the medical jurist the trial is doubly interesting, inasmuch as it embraces all the recent decisions of the law upon the subject, as well as the latest discoveries in the field of medical science. Although the learned professions have been so far chiefly adverted to, yet the public generally have felt so deep an interest in the lamentable transaction, in the proceedings consequent upon it, and in their result, that it has been thought proper to bring out this publication in such a form, and at such a price, as may place it in the hands of the general reader, instead of adopting that more regular and technical mode of getting up which would have confined it to the study of the physician and the library of the lawyer.

London, March, 1843.



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CENTRAL CRIMINAL COURT,  
OLD BAILEY.

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FRIDAY, MARCH 3, 1843.

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THE QUEEN *against* DANIEL Mc NAUGHTON, *for the wilful*  
*Murder of* MR. EDWARD DRUMMOND.

Before LORD CHIEF JUSTICE TINDAL, MR. JUSTICE WILLIAMS,  
and MR. JUSTICE COLERIDGE.

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The following Gentlemen were sworn of the Jury :—

Mr. William Routledge,  
William Jewett Harris,  
Thomas Eames,  
Thomas Gardner,  
Thomas Innocent,  
George Henry Galloway,

Mr. Richard Falcon,  
William Hay,  
Henry Wood,  
Robert Oust,  
William White,  
Thomas Penrose Williams.

---

*Counsel for the Prosecution :*

The Solicitor-General, (Sir William  
Webb Follett,)  
Mr. Adolphus,  
Mr. Waddington,  
Mr. Russell Gurney,  
*Solicitor*—Mr. Maule, of the  
Treasury.

*Counsel for the Prisoner :*

Mr. Cockburn, Q. C.  
Mr. Clarkson,  
Mr. Bodkin,  
Mr. Monteith.

*Solicitor*—Mr. W. C. Humphries.

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The prisoner, on being placed at the bar, was arraigned on the indictment, and also upon the Coroner's inquisition, to both of which he pleaded—"Not Guilty." \* He was then given in charge to the Jury.

The SOLICITOR-GENERAL.—May it please you, my Lord—Gentlemen of the Jury.—You are assembled here to-day to discharge a most solemn and important duty. You will have to decide whether the prisoner at the bar be guilty or not guilty of the awful crime with which he stands charged ; and I feel, gentlemen, that I shall best discharge my duty to the Crown and to the public, on whose behalf I appear here to-day, if I proceed at once to state, as calmly and dispassionately as I can, all the facts and circumstances

\* The true bill had been found at the previous session of the Central Criminal Court, when on motion the trial was postponed to this session. For the proceedings hereon, including the indictment at length, vide Appendix.



connected with the melancholy case. Mr. Drummond, whose death we are to inquire into this day, was, as you all know, probably, the private secretary of Sir R. Peel, and was on terms of friendship and intimacy with him. By virtue of his office, he occupied apartments in the official residence of the Prime Minister of this country. He was in the constant habit of passing from those rooms to the private residence of Sir R. Peel, in Whitehall-gardens; and it will be proved to you that the prisoner at the bar, for many days before the fatal occurrence took place, was seen loitering about those spots, and watching the persons who went in and out of the public offices and the houses in Whitehall-gardens. This conduct had attracted attention, and he was spoken to by some soldiers, who had observed him, as well as by the police; but, unfortunately, no steps were taken to remove him. On Friday, the 20th of January, Mr. Drummond left his apartments in Downing-street, and went to the Treasury, and thence to the Admiralty, in company with Lord Haddington, whom he left at the Admiralty, and proceeded alone to Drummond's banking-house, at Charing-cross; on his return from which, when near the Salopian Coffee-house, the prisoner at the bar—for there can be no doubt of his identity—came behind him, and discharged a pistol almost close to him. After discharging that pistol, the prisoner drew another from his breast, presented it at Mr. Drummond, and was in the act of firing it at him, when a policeman, who had observed him from the opposite side of the street, ran across the road and threw his arms about him; and other persons also assisted the policeman to secure the prisoner, who, in struggling with them, discharged the second pistol, but luckily without doing any mischief. The prisoner was then seized and taken to the police station-house, in Gardner's-lane, where he was searched, and there were found on his person two five pound notes, four sovereigns, and a deposit receipt for 745*l.* from the Glasgow Bank. Among some other trifling articles that were found in his pockets, were ten copper percussion caps, which fitted the nipples of the pistols he had discharged in the manner I have described; and afterwards, upon searching his lodgings, bullets were also found to match the barrels of those very pistols. Mr. Drummond, after the pistol which wounded him was fired, staggered from the effect of the shot, but did not fall. He walked, I believe almost without assistance, back to the banking-house. A medical gentleman in the neighbourhood was sent for, and after a short time Mr. Drummond was removed in his own carriage to his private residence. For some time hopes were entertained of his recovery, and that the wound would not prove fatal; but, unfortunately, those hopes were abortive. He lingered in great pain for some days, and died on Wednesday, the 25th January. Gentlemen, his death is deeply, and I may say permanently, regretted; for he was beloved, esteemed, and valued by all who knew him. He was of a disposition so amiable, that it was impossible he could have had any personal enemies. You will naturally ask then, gentlemen, who was the prisoner at the bar, and what could induce him to deprive of life a being so unoffending? Mr. Drummond was not only without any personal enemies, but he did not fill any prominent situation before the public. He did not hold that situation in public life which would render him obnoxious to political enemies, but he was the private secretary of the principal Minister of the Crown, often an inmate of his house, and constantly passing therefrom to the public offices in Downing-street and the neighbourhood, about which the prisoner was observed to be loitering and watching. You will be satisfied, from the facts of the case, from the threats



used by the prisoner before he committed his crime, and his declarations afterwards, that it was not the life of Mr. Drummond that he sought. You will be satisfied that it was the life of Sir Robert Peel that he desired to take, and that it was his life that he believed he was destroying when he discharged the fatal pistol against the person of Mr. Drummond. Gentlemen, the nature of his crime is not altered by this circumstance, but it affords a reason for it. I need not tell you that he is guilty of murder, although he might have mistaken the person against whom he discharged the pistol. Of the guilt of the prisoner—of the fact of his having deprived Mr. Drummond of life—it is impossible I can suggest a doubt; it is impossible that any doubt can be suggested that the crime was committed, and that that crime was murder. But I cannot conceal from you, because I know, from applications which have been made to this Court, and the depositions which have been made on behalf of the prisoner, that it is intended to rest the defence on the plea that he was insane at the time he committed the crime; and, gentlemen, it will be your painful duty—for painful it must be—to decide whether he was in that degree of insanity at the time he committed that crime, which would render him not a responsible agent, and not answerable to the laws of his country for the offence of which he has been guilty. This defence is a difficult one at all times; for while, on the one hand, every one must be anxious that an unconscious being should not suffer, yet, on the other hand, the public safety requires that this defence should not be too readily listened to; and, above all, the public safety requires that the atrocious nature of the act itself, and the circumstances under which it was committed, should not form any ingredient in that defence. There are few crimes that are committed, and above all, crimes of an atrocious nature like this, that are not committed by persons labouring under some morbid affection of the mind; and it is difficult for well-regulated minds to understand the motives which lead to such offences in the absence of that morbid affection of the mind. I believe that the truth of this remark will be more especially proved when attacks are directed to persons holding high and important stations in the nation. If you look back upon the page of history, and consider the facts connected with the death of persons whose lives have been destroyed by the hands of assassins, you will be satisfied in one moment of the truth of that proposition. But we need not look far back; occurrences of our own times furnish us with sufficient instances for illustration. If you look at a neighbouring country, you will see there that persons in broad day, in the crowded streets of the metropolis of France, without any precaution for their own safety, without any attempt to escape, in the midst of the people, close to the armed guards of the King, have discharged their weapons at the person of the Sovereign of the country. What motive had they? We know of none but that of an ill-regulated mind, worked upon by morbid political feeling. We have seen other instances in France, of parties, having laid plans to assist themselves in their escape, discharging infernal instruments in the streets of Paris, regardless of how many and what lives they destroyed, provided they could reach the person of the Sovereign. I refer to these things, gentlemen, to shew that the circumstances attendant upon the crime itself afford no grounds for holding that the parties committing it are not responsible to the laws of their country. But I know that in this case the defence on the part of the prisoner will not rest upon this, but that evidence will be offered to shew that the prisoner was not in a sane state of mind at the time



he committed the crime; and knowing that, I feel that I ought, in this stage of the case, to refer to some authorities, and state my view of the principles of the English law. It will be open to my learned friend, whose powerful assistance I am happy to see the prisoner will have, to comment upon that, and to differ from me if he thinks I am wrong. It has been the custom in these cases to refer to proceedings of authority, and to the *dicta* of judges who have tried similar questions: not that I mean to say for one moment that it is a question of law; on the contrary, the question to be decided by you is a question of fact, a question of common sense and belief. The whole question will turn upon this:—if you believe the prisoner at the bar at the time he committed this act was not a responsible agent—if you believe that when he fired the pistol he was incapable of distinguishing between right and wrong—if you believe that he was under the influence and control of some disease of the mind which prevented him from being conscious that he was committing a crime—if you believe that he did not know he was violating the law both of God and man, then, undoubtedly, he is entitled to your acquittal. But it is my duty, subject to the correction of my lord and to the observations of my learned friend, to tell you that nothing short of that will excuse him upon the principle of the English law. To excuse him, it will not be sufficient that he laboured under partial insanity upon some subjects—that he had a morbid delusion of mind upon some subjects, which could not exist in a wholly sane person; that is not enough, if he had that degree of intellect which enabled him to know and distinguish between right and wrong, if he knew what would be the effects of his crime, and consciously committed it, and if with that consciousness he wilfully committed it. I shall be able to shew you, gentlemen, with regard to the authorities upon this point, that observations have been made to the effect that they have attempted to define the law too strictly. But such observations were made without regard to the object of those authorities. It is impossible beforehand to lay down any definition of the kind of madness which will excuse the crime of murder; the disease assumes such different forms and such various shapes, and acts in such opposite ways, that you cannot define it. But you may lay down the principles of law which are applicable to it; and they are laid down, and uniformly laid down in the same way, that it is a question for the jury to take into their consideration whether the party was a responsible agent when he committed the crime, whether he then knew right from wrong, whether he was conscious that he was offending against the law of his country and nature, and whether he did it wilfully. Gentlemen, the public safety is the object of all law; the public safety is intrusted solely to the protection of courts of criminal judicature, and to juries who administer justice under the law; and it is with a view to the public safety that the law is laid down by legal authorities principally for the guidance of juries who have to decide upon questions of this nature. We are generally in the habit of referring to one of the celebrated text writers upon the subject—Lord Hale, who lays down the difference between that state of insanity which excuses crime, and that which does not excuse it. In *Hale's Pleas of the Crown*, vol. 1, page 30, is this passage:—“1. There is a partial insanity of the mind, and, 2, a total insanity. The former is, in respect to things, *quoad hoc vel illud insanire*; some persons that have a competent use of reason in respect of some subjects are yet under a particular *dementia* in respect of some particulars, discourses, subjects, and applications: or else it is partial in respect of



degrees; and this is the condition of very many, especially melancholy persons, who for the most part discover their defect in excessive fears and griefs, and yet are not wholly destitute of the use of reason; and this partial insanity seems not to excuse them in the committing of any offence for its matter capital; for, doubtless, most persons who are felons of themselves and others are under a degree of partial insanity: it is very difficult to determine the indivisible line that divides perfect and partial insanity; but it must rest upon circumstances duly to be weighed and considered both by judge and jury, lest on the one side there be a kind of inhumanity towards the defects of human nature, or, on the other side, too great an indulgence given to great crimes. The best measure that I can think of is this:—such a person as, labouring under melancholy distempers, hath yet ordinarily as great understanding as ordinarily a child of 14 years hath, is such a person as may be guilty of treason or felony.” This, gentlemen, I believe to be a correct principle of the law. But I may perhaps be permitted to refer, not to the authority of any judge upon the subject, but to a statement by a learned counsel for the crown in one of the important cases in which this question has arisen,—namely, in the trial of Earl Ferrers, before the House of Lords, for the murder of his steward, Mr. Johnson. Lord Ferrers had shewn symptoms of insanity in a previous part of his life, and his friends had been considering the propriety of taking out a commission of lunacy against him. He had quarrelled with his wife, who was separated from him; and he conceived that his steward took part with her, and called him into his library, where he made him kneel down, upon which he produced a pistol and shot him. He was tried at the bar of the House of Lords, found guilty, and executed. The defence set up was insanity; and in the course of the proceedings, after the speech of the counsel for the defence, the solicitor-general of that day, (who afterwards filled the office of lord chancellor, and who was deputed, I believe, by the law officers of the crown, to conduct the case in the House of Lords,) after referring to the doctrine as laid down by Lord Hale, said, “My Lords, the result of the whole reasoning of this wise judge and great lawyer (so far as it is immediately relative to the present purpose) stands thus:—If there be a total permanent want of reason, it will acquit the prisoner; if there be a total temporary want of it when the offence was committed, it will acquit the prisoner; but if there be only a partial degree of insanity mixed with a partial degree of reason—not a full and complete use of reason, but (as Lord Hale carefully and emphatically expresses himself) a competent use of it sufficient to have restrained those passions which produced crime—if there be thought and design, a faculty to distinguish the nature of actions, to discern the difference between moral good and evil; then, upon the fact of the offence proved, the judgment of the law must take place. My lords, the question therefore must be asked, is the noble prisoner at the bar to be acquitted from the guilt of murder on account of insanity? It is not pretended to be a constant general insanity. Was he under the power of it at the time of the offence committed? Could he, did he, at that time, distinguish between good and evil?” Gentlemen, I believe that also to be a correct explanation of the principles of the English law as applicable to such cases. But there are other cases: In *Russell on Crimes*, p. 8, it is stated—“The great difficulty, in cases of this kind, is to determine when a person shall be said to be so far deprived of his sense and reasoning as not to have any of his actions imputed to him; or when, notwithstanding the defects of this kind,



he still appears to have so much reason and understanding as will make him accountable for his actions ;” and then, quoting the opinion of Lord Hale, and the facts of Earl Ferrers’ case, he proceeded to notice the case of Arnold. He was tried at Kingston, before Mr. Justice Tracy, for maliciously shooting at Lord Onslow. It appeared clearly that the prisoner was to a certain extent deranged, and that he had greatly misconceived the conduct of Lord Onslow ; but it also appeared that he had formed a regular design, and prepared the proper means of carrying it into effect. Mr. Justice Tracy left the case to the jury, observing, “ that when a person has committed a great offence, the exemption of insanity must be clearly made out before it is allowed ; that it is not every kind of idle and frantic humour of a man, or something unaccountable in his actions, which will shew him to be such a madman as is to be exempted from punishment ; but that when a man is totally deprived of his understanding and memory, and does not know what he is doing any more than an infant, a brute, or a wild beast, he will properly be exempted from justice or the punishment of the law.”

There is, gentlemen, a more recent case — that of Thomas Bowler, — upon which there is a note in *Collinson on Lunacy*, p. 673. Bowler was tried at the Old Bailey on the 2nd of July, 1812, for wilfully and maliciously discharging a blunderbuss, loaded with bullets, at William Burrows, and wounding him with the contents in the neck and back, under circumstances, as they were disclosed in the evidence, which manifested considerable ill-will towards the prosecutor, and design in the execution of his purpose. The defence set up was, insanity occasioned by epilepsy. Elizabeth Haden, the housekeeper of the prisoner, deposed that he was seized with an epileptic fit on the 9th of July, 1811, and was brought home apparently lifeless, since which time she had perceived a great alteration in his conduct and demeanour. He would frequently dine at nine o’clock in the morning, eat his meat almost raw, and lie on the grass exposed to rain. His spirits were so dejected that it was necessary to watch him, lest he should destroy himself. Mr. Warburton, the keeper of a lunatic asylum, deposed that it was characteristic of insanity occasioned by epilepsy, for the patient to imbibe violent antipathies against particular individuals, even dearest friends, and a desire of taking vengeance upon them, from causes wholly imaginary, which no persuasion would remove, and yet the patient might be rational and collected upon every other subject. He had no doubt of the insanity of the prisoner, and said he could not be deceived by the assumed appearances. A commission of lunacy was produced, dated June 17, 1812, and an inquisition taken upon it, whereby the prisoner was found insane, and to have been so from the 30th of March then last. Sir Simon Le Blanc, before whom the trial took place, after summing up the evidence, concluded by observing to the jury, that it was for them to determine whether the prisoner, when he committed the offence for which he stood charged, was or was not incapable of distinguishing right from wrong, or under the influence of any illusion in respect of the prosecutor which rendered his mind at the moment insensible of the nature of the act he was about to commit, since in that case he would not be legally responsible for his conduct. On the other hand, provided they should be of opinion that when he committed the offence he was capable of distinguishing right from wrong, and not under the influence of such an illusion as disabled him from discerning that he was doing a wrong act, he would be amenable to the justice of his



country, and guilty in the eye of the law. The jury, after considerable deliberation, pronounced the prisoner "guilty." Gentlemen, I find that these principles are laid down by the judges; I do not know that they can be refuted by my learned friend on the other side; but the question is, whether, under all the circumstances, they must be applicable to the particular case under consideration? There is, certainly, one other case to which I should refer. It is not the authority of a judge; but it is one of the most celebrated cases of the kind—I allude to the trial of Hadfield, on a charge of high treason, for firing at King George III. He was defended by Lord Erskine, who made one of the most eloquent and able speeches, probably, that was ever delivered at the bar; and he entered at that time much into the law of insanity, and the nature of the insanity that would excuse the prisoner. In that case, I believe, no doubt could be entertained of the insanity of the prisoner, and the Court, upon that ground, stopped the trial. But in the course of that trial Lord Erskine said, the prisoner must be shewn to labour under some delusion, and it must also be shewn that he committed the act in consequence of that delusion. That was the ground upon which Lord Erskine put the defence. But, as was remarked by the present Lord Chief Justice of the Court of Queen's Bench, the counsel for the prisoner would only state so much of the law as was applicable to the defence of the prisoner; and I cannot help thinking that there may be many cases in which the prisoner may be excused from the consequences of a crime that would not fall under the description of Lord Erskine. A party may have that state of mind which would render him wholly unconscious of right and wrong; he may have that state of mind which makes him not aware that he is committing a crime, and yet the crime may not be the offspring of any delusion he labours under; nor do I think it is right in another point of view. I think that parties may be liable to be punished under the law although they did labour under a delusion, and although the act may have been committed under that delusion. I think, therefore, the doctrine of Lord Erskine is not true in either way to its fullest extent. I will put one case, that which Lord Erskine refers to in that celebrated speech. He speaks of two brothers—one of whom laboured under the morbid delusion that the other was his enemy, and conspiring against him; and in consequence of that delusion he made a will, in which he disinherited that brother. The question arose as to whether that will could be set aside; and it was held that the will was made under circumstances which rendered it invalid. Now, I cannot help thinking that, upon the principles of the English laws, if that brother was aware of the consequences of what he did—if he knew the difference between right and wrong—and with that knowledge and consciousness had deprived his brother of life, he would have been guilty of murder. I own that in that case the ground laid down does not appear satisfactory either in favour of or against the principle. The next case, gentlemen, is that which took place here in the year 1812, when Bellingham was tried for the murder of Mr. Perceval, and convicted of that offence. He was tried in this court before Lord Chief Justice Mansfield, then Sir James Mansfield, and he laid down the law in this way, as reported in *Collinson on Lunacy*. "In another part of the prisoner's defence," said Sir J. Mansfield, "which was not, however, urged by himself, it was attempted to be proved that at the time of the commission of the crime he was insane. With respect to this the law was extremely clear. If a man were deprived of all power of reasoning, so as



not to be able to distinguish whether it was right or wrong to commit the most wicked transaction, he could not do an act against the law. Such a man, so destitute of all power of judgment, could have no intention at all. In order to support this defence, however, it ought to be proved, by the most distinct and unquestionable evidence, that the criminal was incapable of judging between right and wrong. It must, in fact, be proved beyond all doubt that at the time he committed the atrocious act with which he stood charged he did not consider that murder was a crime against the laws of God and nature. There was no other proof of insanity which would excuse murder or any other crime. There were various species of insanity. Some human creatures were void of all power of reasoning from their birth; such could not be guilty of any crime. There was another species of madness, in which persons were subject to temporary paroxysms, in which they were guilty of acts of extravagance; this was called lunacy. If these persons were to commit a crime when they were not affected with the malady, they would be, to all intents and purposes, amenable to justice. So long as they could distinguish good from evil, so long would they be answerable for their conduct. There was a third species of insanity, in which the patient fancied the existence of injury, and sought an opportunity of gratifying revenge by some hostile act. If such a person were capable in other respects of distinguishing right from wrong, there was no excuse for any act of atrocity which he might commit under the description of insanity." Now, from the last observation of the learned judge who tried that cause, it appears to me, gentlemen, that a party may labour under the delusion of having received injury, but if he be able to distinguish between right and wrong, and if he be conscious of the nature of the crime, the delusion will not excuse him from punishment for that crime. That judgment of Lord Mansfield has been supported also by Lord Lyndhurst, in a case which, gentlemen, I will read to you. It is to be found in *Carrington and Payne's Reports*, volume 5, p. 168. "In the case of *Rex v. Offord*, the prisoner was indicted for the murder of a person named Chisnall, by shooting him with a gun. The defence was insanity. It appeared that the prisoner laboured under a notion that the inhabitants of Hadleigh, and particularly Chisnall, the deceased, were continually issuing warrants against him with intent to deprive him of his liberty and life; that he would frequently, under the same notion, abuse persons whom he met in the street, and with whom he never had any dealings or acquaintance of any kind. In his waistcoat pocket a paper was found, headed, 'List of Hadleigh conspirators against my life.' It contained forty or fifty names, and among them 'Chisnall and his family.' There was also found among his papers an old summons about a rate, at the foot of which he had written 'This is the beginning of an attempt against my life.' Several medical witnesses deposed to their belief that, from the evidence they had heard, the prisoner laboured under that species of insanity which is called 'monomania,' and that he committed the act while under the influence of that disorder, and might not be aware that in firing the gun his act involved the crime of murder." The observations of Lord Lyndhurst, who tried the cause, appear to have been in perfect unison with the law as laid down by former judges, especially Lord Mansfield. Lord Lyndhurst, in summing up, told the jury, that "they must be satisfied, before they could acquit the prisoner on the ground of insanity, that he did not know, when he committed the act, what the effect of it, if fatal, would be, with reference to the crime of murder. The question was, did he know that he



was committing an offence against the laws of God and nature." His lordship then referred to the doctrine laid down in Bellingham's case, by Sir James Mansfield, and expressed his complete accordance in the observations of that learned judge, and, as I conceive, in accordance with the correct principles of law. I have referred to these authorities for the purpose of enabling you, gentlemen of the jury, to judge of the evidence which will, beyond doubt, be produced on behalf of the prisoner, that you may compare the circumstances, and consider whether the prisoner at the bar was in that state of mind which rendered him not responsible for the crime he committed. But, knowing the nature and object of that evidence, I think I should not discharge my duty to the public or to the Crown, if I did not lay before you on my part what is known respecting the history of the prisoner, and what is known of his conduct directly before his apprehension. It is right I should tell you, at least, that I do not mean to go into any observations which persons may have particularly directed to the state of mind of individuals in similar circumstances, but to shew in what way the prisoner has conducted himself in his past life, the way in which he managed his business, the mode and manner of his living, what care he took of himself, and how he was left by all his connexions to manage his own affairs, and continued to do so down to the very hour of his defence. It appears that he has carried on the business of a wood-turner in Glasgow, and that his father had carried on the same business before him. They did work together, but he left his father in consequence of some dispute between them, and set up on his own account as a wood-turner in Glasgow. He continued carrying on that business down to the end of the year 1840. He then left that business, and went and took lodgings in Glasgow with a person of the name of Pattieson. He seems to have been of very sober, prudent, and saving habits, and had, during the time he was in business in Glasgow, saved a considerable sum of money by the time he retired at the close of the year 1840. He afterwards occasionally came to London, and it appears that he has been upon the Continent. While in London, he resided with a Mrs. Dutton, who lives at No. 7, Poplar-row, Newington, and he was residing there when he committed the crime with which he now stands charged. While at Glasgow, he attended lectures on natural philosophy at the Mechanics' Institution in that city, and he took an active part in various alterations which were made in the rules of that institution, and also in the arrangement of the rooms and the conveniences of the building. He was in the habit of getting books from the library; he was known to all the persons who frequented that institution, and, moreover, he afterwards attended lectures on anatomy, and made considerable progress in that science. I shall call one of the persons whose lectures he attended. He came first to London in July, 1841, when he went to the house of Mrs. Dutton and lodged there continually, therefore she has had an opportunity of seeing him and noticing his habits for the last year and a half. He had been ill in her house, and she attended him, and she will be examined as a witness. She will tell you, gentlemen, that, as far as she could see, there was nothing extraordinary in his conduct. On the morning of the day on which the crime was committed, she spoke to him, and assisted him in putting on part of his dress, but neither then nor when he left the house did she observe anything extraordinary in his manner or demeanour, and she had no reason at any time to consider him insane. Gentlemen, I stated that



he came here in July, 1841. Before that he had opened an account with the Bank of Glasgow, upon what is called a deposit receipt. He afterwards shifted that to the London Joint Stock Bank, and he had applied to the persons in London to give him 5*l.* on the deposit, which was for about 750*l.* They said it was contrary to usage to do it, and he then drew out the 750*l.*, and obtained the 5*l.* he wanted, and then when he got that sum of money he paid the other back. But on the 23rd May, desiring to transfer his account to the Glasgow Bank again, he wrote this letter :

“ Glasgow, May 23rd, 1842.

“ Sir,—I hereby intimate to you that I will require the money, ten days from this date, which I deposited in the London Joint Stock Bank, through you. The account is for £745 : the account is dated August 28th, 1841, but is not numbered. As it would put me to some inconvenience to give personal intimation, and then remain in London till the eleven days’ notice agreed upon had expired, I trust this will be considered sufficient.

“ Yours, &c.,

“ DANIEL M’NAUGHTON.”

Well, upon that, gentlemen, the account was transferred to the Bank of Glasgow, and he received a deposit receipt from the Bank of Glasgow for the larger sum, specified in the deposit receipt found upon him at the time of his apprehension. Another letter was written by him in July, 1842, which will be read to you, as it will be proved that he went to the shop of a gunsmith in the neighbourhood of Glasgow, where he bought the pistols, and bargained with the man for them, expressing a wish to have them of the same size, and desiring the man, if he had not them himself, to get them for him. In that month he bought the pistols, and in that month he came to London, and again in the September following. But on the 19th of July he wrote the letter relating to his entering into some business or partnership in London, in consequence of an advertisement published in a London newspaper—the *Spectator*—of the 16th of that month, as follows :

“ OPTIONAL PARTNERSHIP.—Any gentleman having 1000*l.* may invest them, on the most advantageous terms, in a very genteel business in London, attended with no risk, with the option, within a given period, of becoming a partner, and of ultimately succeeding to the whole business. In the meantime, security and liberal interest will be given for the money. Apply by letter to ‘ B. B.,’ Mr. Hilton’s, bookseller, Penton-street, Pentonville.”

On the 21st of July the advertiser received from the prisoner the following letter :—

“ Glasgow, 19th July, 1842.

“ Sir,—My attention has been attracted to your advertisement in the *Spectator* newspaper, and as I am unemployed at present, and very anxious to obtain some, I have been induced to write, requesting you to state some particulars regarding the nature of the business which you are engaged. If immediate employment can be given or otherwise, what sort of security will be given for the money, and how much interest? I may mention that I have been engaged in business on my own account for a few years, am under 30 years of age, and of very active and sober habits.

“ The capital which I possess has been acquired by the most vigilant industry, but unfortunately does not amount to the exact sum specified in your advertisement. If nothing less will do, I will be sorry for it, but cannot help it; if otherwise, have the goodness to write me at your earliest convenience, and address ‘ D. M. M.,’ 90, Clyde-street, Anderton’s frontland, top flat.”

He then came to London in that same month, and I shall call before you some of his friends and acquaintances who had known him in Glasgow, and who met with him and had various conversations with him, and with whom he walked by the house of Sir Robert Peel; particularly, evidence will be given with regard to a conversation with the prisoner in the month of November, 1842. He remained in London from that time down to the time when he committed the offence, in the month of January, and still lodged



in Mrs. Dutton's house. Other persons at that time were acquainted with the prisoner; these persons I will put into the witness box—persons conversant with his manners and habits, as well as his landlady, in order that you may form an opinion whether or not the prisoner was a responsible agent at the time he committed the offence. On the other side, no doubt, evidence will be offered to prove his insanity; and certainly it is some consolation to me, in the discharge of a painful duty, to know that the interests of the prisoner will be most ably and powerfully attended to; but it will be your duty, and no doubt your desire also, to most attentively listen to the evidence on both sides, and to weigh the one against the other. What the precise nature or the details of the evidence on the part of the prisoner may be, I cannot say. I know not the exact nature of it, nor its extent; but when it is adduced, you will say, upon that evidence, are you or are you not satisfied that the prisoner was, at the time he committed this crime, a responsible agent, that he did know right from wrong, and that he was aware of the consequences of the act which he committed? If you think he was not, he ought to be acquitted. If that should be the result of the evidence, he will be entitled to your acquittal. But if it fall short of that, if you think he was a responsible agent, I need not say to you that public justice requires a different verdict. It is a painful duty, gentlemen, but it is a duty which must be faithfully discharged; and I am perfectly satisfied that when you have heard the witnesses, when you have maturely deliberated upon and considered the evidence, your verdict will be one of justice between the public and the prisoner.

James Silver called, and examined by Mr. Waddington.—I am a police constable of the A division. On Friday, Jan. 20, I was on duty at Charing-cross, twenty minutes before four o'clock in the afternoon. I was on the right side of the street from Whitehall. I heard a report of a pistol on the opposite side of the street. I looked over, and saw a gentleman stagger, with his hand pressed against the left side of his back. I also saw the prisoner returning a pistol with his right hand into the left side of his breast. He was behind the gentleman. When I saw him put the pistol into his bosom, I perceived that he drew another pistol from his right breast, with his left hand, and change it into his right hand. I ran across the street, and seized his right arm, and tripped his feet from under him. He struggled very violently, and the pistol went off upon the pavement. When I seized him he tried to raise his right arm, and turn upon me, but I secured him so that he could not. I then took the pistol from his right hand, and also the other from his left breast. On the way to the station-house, he said, either "he" or "she" (I cannot recollect which) shall not break my peace of mind any longer. That was all he said. At the station-house I found ten pistol caps on him, three 5*l*. Bank of England notes, a receipt for 750*l*. of the Glasgow and Shipping bank, four sovereigns, four half-crowns, one shilling and fourpence, a knife, a key, and a small coin. I also found upon him an address, "Daniel M'Naughton, 7, Poplar-row, New Kent-road," which was found to be correct. From being frequently on duty in the neighbourhood of Whitehall and Downing-street, I had often seen Mr. Drummond. I knew his person well, and he it was whom the prisoner shot. I had often seen Mr. Drummond coming out of Sir Robert Peel's house, and the Treasury and the Privy Council offices. I produce the pistols and other articles found upon the prisoner. The date of the receipt from the Glasgow bank is June 2, 1842, for 750*l*.

The receipt was put in and read:—

No. 7959.

2nd June, 1842.

#### THE GLASGOW AND SHIP BANK.

*Received from Mr. Daniel M'Naughton seven hundred and fifty pounds sterling, which is placed to the credit of his Deposit Account with the Glasgow and Ship Bank Company.*

£750.

JAS. WATSON, Cashier.

Ent. M. J. B.

INDORSED.

*Received of Messrs. Glyn & Co., this 29th day of Nov., 1842, Twenty Pounds.*

DANIEL M'NAUGHTON.



Witness.—I also produce a pistol ball which I received from Colonel Drummond, the brother of the deceased gentleman.

Cross-examined by Mr. Cockburn.—A few seconds only elapsed between the firing of the first pistol and my seizing the arm of the prisoner. When I seized him his right hand was elevated.

Benjamin Weston, examined by Mr. Gurney.—I am an office-porter. On the afternoon of the 20th of January, shortly before four o'clock, I was in the neighbourhood of Charing-cross, when I heard the report of a pistol; on turning round I saw a gentleman pointing to the prisoner, who was standing about three paces behind him. I then observed the prisoner draw back a pace or two and draw a pistol from his breast; he then placed the barrel of his pistol in his left hand and cocked it; I then observed that the gentleman was reeling, and the prisoner was pointing the pistol at him. At that moment the witness Silver ran up and sprung upon him, seizing him by the arms. A scuffle then took place, and in the scuffle the second pistol was discharged.

Cross-examined by Mr. Clarkson.—The prisoner drew the pistol very deliberately, but at the same time very quickly. As far as I can judge, it was a very cool deliberate act. I was about eight paces distant, and did not hear the cocking of the pistol, but from his motion I could distinctly discern what he was doing. There was no one between the gentleman and the prisoner.

Mr. Richard Jackson, examined by the Solicitor-General.—I am an apothecary, residing in Charles-street, St. James', Westminster. I knew the deceased, Mr. Drummond, from his infancy. I was intimate with him. On the afternoon of the 20th of January I was sent for to attend him at the banking-house, Charing-cross. I satisfied myself that he had been wounded, but did not examine the wound. I recommended his immediate removal to his own residence, and accompanied him there in his carriage. Mr. Guthrie, Mr. Bransby Cooper, and other medical gentlemen, were soon in attendance upon him, and the ball was extracted the same day, within an hour after the injury was received, and I was present at the time. Mr. Drummond lingered till the following Wednesday, when he died.

Mr. George James Guthrie, examined by the Solicitor-General.—I was called in to see Mr. Drummond about five o'clock on the evening of the 20th of January. Miss Drummond came in a carriage to my door, where I happened to be standing, and took me to his residence. I found Mr. Bransby Cooper there, who had examined the wound before my arrival; but as he had not found the bullet, we at once proceeded to make a further examination. We then turned Mr. Drummond upon his back, and found the ball in the front, about half an inch below the skin, which was taken out by a lancet, not at the time having other instruments at hand. I continued in attendance upon the deceased to the time of his death, and was subsequently present at a *post mortem* examination of the body. I have no hesitation whatever in saying that his death was occasioned by the wound. In my opinion it is quite impossible that any person could have survived such a wound; the ball passed through the body directly, but not in a straight line. It wounded the diaphragm, and that is a wound which never heals under such circumstances. It is certainly a mortal wound. I never knew a person to recover from such a wound made by a ball; but when occasioned by a lance, sword, or spear, I have seen it healed. I marked the ball at the time it was taken from the wound.

Mr. Bransby Blake Cooper, examined by Mr. Waddington.—I attended Mr. Drummond, in conjunction with Mr. Guthrie and other medical gentlemen. I was present when the ball was extracted. I believe I took the ball from the incision made by Mr. Guthrie. (The ball was here produced.) I perfectly agree with Mr. Guthrie with respect to the nature of the wound, and have no doubt whatever that that was the cause of death.

Mr. Guthrie examined the ball produced, and declared it to be the same which was extracted.

George Walter Shew, examined by Mr. Gurney.—I am a policeman of the A division, No. 10. On the evening of the 20th of January I searched the prisoner's lodgings, at No. 7, Poplar-row, Kent-road, and in the drawer of a table in his room, I found the powder flask, the percussion caps, the five leaden bullets, and the pistol key which I now produce. The bullets fitted the pistols used by the prisoner.

By Mr. Bodkin.—The articles I produce were found in the drawer of a table which was pointed out by his landlady as being used by the prisoner.

John Massey Tierney, examined by the Solicitor-General.—I am an inspector of the A division of police. On the evening of the 20th of January I went to the station-house in Gardener's-lane, where I found the prisoner in custody. I did not then have any conversation with him. Between the hours of five and eleven o'clock I visited the prisoner in his cell several times, and conversed with him. When I first went to him I gave him a caution that, in any conversation we might have together, he should say nothing to criminate himself, as it might be used in evidence against him. I cautioned him in the same manner on



other occasions, when he said I acted fairly towards him, and that fair play was the English character. I then asked him where he came from, and he replied from Glasgow. He said that he had left Glasgow about three months; that he stayed at Liverpool seven days, and then came to London, where he had remained ever since; he then said that he was in business at Glasgow as a turner, but left that and was going into another business, but was prevented. I observed that he had a good share of money, to which he replied that he had wrought hard for it, and that he generally did the work of three ordinary men daily. I told him I had been in Glasgow three or four weeks before, and brought a prisoner, named Ellis, from there, who was charged with the Staffordshire riots. He then asked the name of the ship I went in. I said I had forgotten, but thought it was the British Queen. He said I must have been mistaken, it must have been the Princess Royal, and I then recollected that was the name of the vessel. I then asked him whether he knew Mr. Richardson, the superintendent of the Gorbals police? He said he did, and added that he was considered a more clever man than Miller (another police officer). I then asked him whether he came over in the Princess Royal? He said he did not; he came over in the Fire King. I asked him whether there was a railway from Edinburgh to Glasgow? He told me there was, and, as far as I recollect, said they were thirty or forty miles apart. He also mentioned the fares, and I think he said the fare was 6s. in the second class carriage. I told him that when I was going to Glasgow, I went on shore at Greenock, and thence by rail to Glasgow; that I went through Paisley, and described the situation of the town to him, and then asked him whether he had ever been there? He said he had. I remarked that it was a great place for shawls. He admitted that it was; that nearly all the inhabitants were weavers, but he was sorry to say there were a great many of them out of employ. I then asked him whether he would take any refreshment, when he expressed a wish to have some coffee, with which he was supplied. In the course of conversation, I asked him whether Drummond was a Scotch name? He answered that it was; that it was the family name of the Earl of Perth, but the title had become extinct. I do not recollect that anything further took place that night. On the following morning I again saw the prisoner, between eight and nine o'clock. On entering his cell, I asked him whether he had had his breakfast? He replied in the affirmative, and asked to have some water to wash himself with. I then sent the constable, who had been sitting up with him, for some water, and when he had left the cell, I said to the prisoner—"I suppose you will assign some reason to the magistrate this morning for the crime you have committed?" He said, "I shall give a reason—a short one." I then said, "You might have stated anything you thought proper to me last night, after the caution I gave you." He then told me that he was an object of persecution by the Tories, that they followed him from place to place with their persecution. He seemed inclined to go on with his statement, when I said, "I suppose you are aware who the gentleman is you shot at?" He said, "It is Sir Robert Peel, is it not?" I at first said "No," but in a moment recollecting myself, said, "We don't exactly know who the gentleman is yet." Then turning round, I said, "Recollect the caution I gave you last night, not to say anything to criminate yourself, as it may be used in evidence against you;" to which he immediately replied, "But you wont use this against me?" I said, "I make you no promise; I gave you the caution." I then left the cell, and in the course of the same day took him to the police-court, Bow-street.

Cross-examined by Mr. Cockburn.—It was my duty to visit all the cells in the course of the night.

Mr. Cockburn.—Is it your duty to put questions to the prisoners?

Witness.—As long as I do not interfere with the case in point I do not see any harm in putting questions to prisoners.

Mr. Cockburn.—Did any one direct you to put such questions?

Witness.—Certainly not.

Mr. Cockburn.—What was your object in putting them?

Witness.—I wanted to get all the information I could about his former life.

Mr. Cockburn.—In order to give it in evidence against him?

Witness.—I never intended to give in evidence against him anything he told me till he mentioned the name of Sir Robert Peel.

Mr. Cockburn.—What was your motive for wishing to get information respecting his former life?

Witness.—Nothing that I know of but the anxiety of human nature, under such revolting circumstances, to know who and what he was.

Mr. Cockburn.—Now, do you mean to swear that you ever intended to suppress the evidence you have given?

Witness.—Not to suppress it, but I had no intention to mention it till he mentioned the name of Sir Robert Peel. I cannot give you the precise conversation which took place



at each interview, but I have stated the substance of them all. A constable, of the name of Edwards, was present when the conversation took place, but he is not here to-day. As I did not intend to mention the conversations, I did not make any notes of them, but I did make a memorandum of the conversation in which Sir Robert Peel's name was mentioned.

Mr. Cockburn.—Why did you not have the morning conversation in the presence of the constable?

Witness.—I wish he had been present. I had no motive for the conversation taking place in his absence. I first mentioned the conversation at Bow-street.

Mr. Cockburn.—Do you mean to swear that you had no motive lurking in your mind when you asked him whether he intended to make any statement before the magistrate?

Witness.—I had no particular motive, but I imagined the responsibility was off my shoulders after the caution I gave him on the previous night.

Mr. Cockburn.—Was not the object of that interview to induce him to make that statement.

Witness.—I did it for the purpose of letting him know that I was ready to receive any communication he thought proper to make.

Mr. Cockburn.—When did you first mention these circumstances?

Witness.—I first mentioned them to Mr. Burnaby at Bow-street, on the morning of the prisoner's first examination, before the examination took place; and to Mr. Hall, the chief magistrate, afterwards; but I believe he was aware of it before the examination. I was not examined on the first occasion.

Mr. Cockburn.—Did you mention the conversation to any one else?

Witness.—Yes; I mentioned it to the Commissioners of Police, but I cannot say whether I mentioned it to Colonel Rowan. I sent a private report in writing to the Commissioners.

Mr. Cockburn.—Now, perhaps, you will tell me upon your solemn oath, whether, when you made that observation to him, you did not do so with the intention of extorting a confession from him?

Witness.—The remark was thoughtlessly made. I wanted to turn the conversation, as I thought he was going to make a full confession, and I did not wish to hear it.

Re-examined by the Solicitor-General.—I was subsequently examined at Bow-street, and I then heard the prisoner make a statement. That statement was taken in writing by the clerk and signed by the prisoner.

The Solicitor-General (handing a document).—Is that the statement?

Witness.—It is.

The Clerk of Arraignment then read the statement as follows:

"The Tories in my native city have compelled me to do this. They follow and persecute me wherever I go, and have entirely destroyed my peace of mind. They followed me to France, into Scotland, and all over England; in fact, they follow me wherever I go. I cannot get no rest for them night or day. I cannot sleep at night in consequence of the course they pursue towards me. I believe they have driven me into a consumption. I am sure I shall never be the man I formerly was. I used to have good health and strength, but I have not now. They have accused me of crimes of which I am not guilty; they do everything in their power to harass and persecute me; in fact, they wish to murder me. It can be proved by evidence. That's all I have to say."

Edward Howe, examined by Mr. Waddington.—I am office-keeper at the office of the Board of Trade at Whitehall. I know the prisoner at the bar. I first saw him about a fortnight before the 20th January last. He was then standing at the top of the steps of the Council Office, which is at the corner of Downing-street. Sir Robert Peel's residence is in Privy-gardens, which is nearly opposite the end of Downing-street. Sir Robert Peel, at times, walks up Downing-street to his official residence. I had no conversation with him at that time; I saw him almost daily after that time, either on the Council Office steps, or in the neighbourhood of the Treasury; sometimes I have seen him twice in one day. On the 20th of January, between three and four o'clock, I again observed the prisoner standing on the Council Office steps, when I said, "You'll excuse my taking the liberty, Sir, but I belong to the office next door; you are a police-officer, are you not?" to which he replied, "Yes;" and I said, "I suppose, then, it is all right." I then went away, leaving him on the steps. In less than an hour afterwards I saw him in custody in Gardener's-lane station-house.

Mr. Cockburn declined to cross-examine this witness.

James Partridge, examined by Mr. Gurney.—I am a police-constable of the A division, and am occasionally on duty at Whitehall; whilst there I have frequently noticed the prisoner in the neighbourhood of the Council Office between the 5th and the 20th of January. On the 13th of that month I spoke to him, and asked him whether he was



waiting for any person, when he replied that he was waiting for a gentleman, and immediately walked away in the direction of the Horse Guards. On the 20th I again spoke to him, about ten o'clock in the morning; he was then standing on the last step leading to the Council Office, where he remained for about twenty minutes. I then asked him whether he had seen the gentleman he had previously told me he was waiting for? He quickly replied "No," and instantly walked away. He did not appear inclined to answer any questions. About twelve o'clock the same day I again saw the prisoner standing near Lady Dover's, eating a piece of bread. Lady Dover's is opposite Gwydyr-house, at the back of which is the residence of Sir Robert Peel, but it cannot be seen from Lady Dover's.

This witness was not cross-examined.

Richard Jones, examined by the Solicitor-General.—I am a recruiting sergeant belonging to the 10th Hussars. About twelve or fourteen days previous to the 20th of January, (the day Mr. Drummond was shot,) I frequently saw the prisoner in the neighbourhood of Whitehall, walking between Whitehall and Charing-cross. On one occasion I asked him to join her Majesty's service, if he felt inclined to enlist, but he said he had something better in view. On a subsequent day I met him near the gates of the Horse Guards, when I said, "Oh, what here again! is there any particular regiment you wish to join?" but his reply was, "I don't wish to enter the service, I am only waiting to see a gentleman." On the 20th I again saw the prisoner near Downing-street, about fifteen yards from the steps of the Privy Council Office, when I pointed him out to one of the police. The next time I saw him he was in custody.

Not cross-examined.

William Bale, examined by Mr. Waddington.—I am a sergeant in the 2nd Dragoon Guards, and was engaged recruiting opposite to the Horse Guards for ten or twelve days previous to the day Mr. Drummond was shot. I know the prisoner, from seeing him in that neighbourhood. I noticed the prisoner, for several days previous to the 20th of January, loitering about in the neighbourhood of Downing-street and Whitehall; I also observed him several times pass through Privy-gardens, opposite Sir R. Peel's, and round by the chapel. I asked him two or three times to enlist, but he said he had no intention to join the army; he was merely waiting to see a gentleman.

Not cross-examined.

John Drake, examined by Mr. Gurney.—I am a police constable of the A division, and in the months of December and January last I occasionally was on duty at Whitehall. I noticed the prisoner very frequently near the corner of Downing-street, loitering about. This occurred frequently between the 3rd and 4th, and the 20th of January last. I have spoken to the prisoner; that was on Wednesday the 18th of January. I said to him, "Some of the gentlemen inside have been speaking to me about your standing on the steps;" he said, "Tell them it is a *notion* I have taken." I said, if you are waiting for any one you had better wait on the pavement, as they don't appear to like your standing on these steps, unless they knew your business: he said, "You can tell them their property is quite safe." On that same day I spoke to him again, at the corner of Downing-street; he then asked me to take a glass of ale; I declined it, and he then asked me if I would take gin, and that I also declined. I left him for that day, and on the following day I saw him, at 1 to 5 in the afternoon, at the corner of Downing-street; he then asked me if I would have something to drink then, and I said, "No, thank you;" he said, "Why wont you?" and I replied, "If any of my people see me I shall get into trouble." I did not see him again until the next day, at the station-house, in Gardener's-lane.

Not cross-examined.

Mrs. Eliza Dutton, examined by the Solicitor-General.—I live at No. 7, Poplar-row, Newington. The prisoner at the bar came to lodge at my house about last July twelve months. I had a bill up for a back attic to let. The prisoner came alone and looked at the room. I did not make an agreement with him at that time, but he came again in the evening, and he said it would suit him very well, and agreed to pay half a crown per week. He remained with me for three months; he generally went out between eight and nine in the morning, and sometimes later; sometimes he went out without having his breakfast; he returned home generally about eight or nine in the evening. I used to wash for him, and he always paid me punctually for it, and also my rent. When he left his lodging he was absent about a fortnight or three weeks, and I think he said he had been to France. I never thought him unsettled in his mind. He came back and then remained with me about three weeks, when he again quitted until the September following, when he returned. In the beginning of December he was poorly, but I never did anything for him in the house; he asked me to get him a little barley-water, which I did; he had no medical man to attend him. He said he was suffering under a bad cold from neglect; he continued ill about a fortnight. I never had any conversation with him whatever about his friends. I recollect seeing the prisoner on the morning of the day Mr. Drummond was shot; I



asked him if he had got the brushes for his boots, and he said he had. I gave him the clothes brush, but he did not use it. I saw him again on that day, about a quarter to ten o'clock, when he went out. I did not observe, on that morning, anything about his manner. When he came back to me in September last, he said he had been to Scotland. I asked him if he had seen the Queen when she visited there, and he said he had not, for he was not in that part. I asked him if he thought the Queen's visit had done trade good, and he said he thought it had. He was always very regular in his habits. I never knew him to stay out.

Cross-examined by Mr. Clarkson.—He appeared to me to be a man of very sober habits. He was very reserved in his manners. He avoided conversation with people. When I have spoken to him he never appeared to wish to join in a conversation. I never saw any companion with him. On the morning Mr. Drummond was shot he went out and returned; he ran up stairs, and then went out again. When he was ill, I observed that his head appeared to be bad, and that he had much fever. When I spoke to him about the Queen's visit to Scotland, he seemed to wish to avoid my questions. He was not in the habit of looking people in the face, but always hung his head down. He spoke quickly. His habits appeared to me to be very penurious; he had but one change of linen, and one change of socks. I had no idea whatever that he was possessed of such a large sum of money as 700*l*. No person ever called upon the prisoner while he lodged at my house. Whenever he came home at night he went to bed immediately. He never had a fire in his bed-room. He had no sitting-room. I always considered the prisoner very sullen and reserved. There were five other lodgers in my house. I let my house out generally. I make my living by it. I sleep in the room adjoining the prisoner's room. I have heard him get out of his bed at night, and I have heard him moan repeatedly, but it did not attract my attention, as I had observed nothing peculiar about him. I never heard him pacing the room of a night, but I have known him get out of bed, and smoke a pipe. I thought the prisoner was a person out of a situation with very small means. I attributed his sullenness to his difficulty in obtaining a situation.

Re-examined by the Solicitor-General.—The prisoner used to go out and stay out all day until the evening. He has returned occasionally during the day. He did not take his meals in my house. He breakfasted out, except when he was ill. His room was never locked; there were three table drawers in his room which had no locks. I saw the police find the powder flask and bullets in the table drawer; but I never knew that he had such things. For two or three weeks occasionally, I have heard him get out of bed at nights. I have heard him moan; that was when he was ill. When in health, he appeared to sleep well, generally speaking. In the latter part of the month of December, and up to the time he was taken into custody, he went out in the morning and came home at night pretty regularly.

By Lord Chief Justice Tindal.—When he came to lodge with me first he brought a portmanteau with him, which he kept in his bed-room. He also brought that on the second occasion. He took it away when he left me the second time, but did not bring it back on coming to lodge with me the third time. He then had nothing but what was about his person. The change of linen must have been in his pockets. He had no books lying about his room. I gave him one religious book—“*Extracts from the Bible.*” I gave it him because he asked me for it. His habits were just the same on Sunday as on other days.

Mr. William Henry Stevenson, examined by the Solicitor-General.—I am private secretary to Sir Robert Peel. I knew the late Mr. Edward Drummond; he was also private secretary to Sir Robert Peel. Mr. Drummond was in the habit of transacting business at his private apartments in the official residence, in Downing-street. Sir Robert Peel was also in the habit of transacting business at that house. Both Mr. Drummond and Sir Robert Peel were very much in the habit of going from the private residence of the premier, in Privy-gardens, to the house in Downing-street. In doing so you pass by the steps leading to the Council Office; you may also go through the Treasury.

John Gordon, examined by Mr. Waddington.—I have known M'Naughton about six years. He was working in the same close (court) with me when I knew him; he was working for himself. I was manager for Messrs. Laing and Son, and occasionally employed the prisoner. I continued to employ the prisoner when he went into business for himself, in Stockwell-street, and until he gave up business, about a year and a half ago. I saw the prisoner twice or thrice a week during the whole of that time. I paid him money, and he gave me receipts for the same. I was not in the habit of visiting him. I was not generally acquainted or intimate with him. We communicated only on matters of business. I never saw anything particular about his conduct on any occasion. I came to London in November last, when I met the prisoner in St. Martin's-lane. I shook hands with him, and asked him, “What he did up here?” and he asked “What do you here?” and I replied, “In search of employment.” Prisoner said, “I am also in search of employment.” I did not know that he was in London until I met him then. He asked me where I was going, and I told him to Mr. Hedge's, in



Great Peter-street. We then walked on together and passed by the Horse-Guards and down Parliament-street. I know Sir Robert Peel's house; we passed that on our way to Westminster-hall. I mentioned to him that that (pointing to the house) was where Sir Robert Peel stopped. He said, "D—n him, sink him," or something like that. When we passed the Treasury, he said, "Look across the street, there is where all the treasure and worth of the world is," or something like that. When we got to Westminster-hall, we entered some of the courts, and afterwards we went to the Abbey. He said, "You see how time has affected that massive building," or something like that. We then went to Great Peter-street. He delayed for me a little, but when I came out of Mr. Hedge's shop he was gone. I went to Mr. Hedge's to work after that, and on Friday evening M'Naughton again came to see me. We went to Westminster Bridge together, and entered a public-house at the end of the bridge, on the Surrey side. We had two pots of porter together, and we remained there about three-quarters of an hour. We did not have much conversation; it was chiefly about Glasgow. I also told him I had been to see the British Museum, and the Picture Gallery, but I am not certain if he said anything about that or not; he said he had inquired for employment after he left me at a shop in Great Peter-street, but that he could not get it; he said it was a turner's shop, and that the London turners were a century behind in their work; and that, if he had them in Glasgow, he would learn them something. M'Naughton paid for the beer we had. I wanted to pay for one of the tankards, but he said it was no use my doing that, as he was not hard up. We then went to Stamford-street and parted. I left London on the Tuesday afterwards.

Cross-examined by Mr. Bodkin.—I have known the prisoner many years. He appeared to me to be carrying on a prosperous business in Glasgow. I heard that it was his intention to give up business some months before he did so. I saw him only once after he gave up business. He appeared to be a very hard-working, sober, and industrious man. So far as my intercourse with him allowed me to judge, he appeared to be a particularly mild and inoffensive person. He would sometimes speak roughly. His manner did not appear to be changed when I met him in St. Martin's-lane. I did not have any idea that his mind was disordered.

John Caldwell, examined by Mr. Gurney.—I reside at Glasgow, and was acquainted with the prisoner. He wished to take a workshop of me, and mentioned who he was, and gave me references, which induced me to let him the shop, and he occupied it from May, 1835, to 1836. During that time I saw him occasionally in his shop, and there was some dispute between us on one occasion about his rent. That was arranged by my reducing his rent from 9*l.* 10*s.* to 9*l.* When the prisoner gave up my shop, he removed to another part of the city called Stockwell. I employed him occasionally in his business, and continued to see him till 1838, when I lost sight of him. While I knew him I never observed anything remarkable in his conduct or manners.

Mr. James Thompson, examined by Mr. Waddington.—I am one of the magistrates of Gorbals, near Glasgow, and also house-factor of some property in a street called Stockwell, in that city. I knew the prisoner, and first became acquainted with him in November, 1838, when I received rent from him for a workshop in Stockwell, and I continued to do so until November 11, 1840. The prisoner was succeeded by a person named Carlow. The amount of the rent was 12*l.* a-year, and he paid it regularly. He paid it himself with his own hand. After he left the workshop, I next saw him on April 19, 1842. He called at my house in the evening, and said he had a demand against me. I asked him what it was, and he said that he had paid a rate, and I had not paid him the landlord's portion which I ought to have contributed to it. When he made this claim he produced a receipt for the rate which he referred to. (The receipt was here put in.) The sum paid was 6*s.* 3*d.*, half of which he claimed of me, and I gave him the amount, and he made a memorandum on the back of the receipt. I saw no difference in him or his manner. I never saw anything remarkable in him.

Cross-examined by Mr. Clarkson.—I saw him only half-yearly, when he came to pay his rent. I had no particular reason for noticing his behaviour, or his conduct, or demeanour.

Mr. Alexander Martin, examined by Mr. Gurney.—I reside at Paisley. I am a gun-maker. I have seen the prisoner in my shop. I think it was in July last year, on the 14th, or about that time, but I will not be positive. He called and said he wanted a sight of some pistols, and I shewed him some; he bought two of me. Those produced to-day are the same. They do not match. He said he wished to have a pair to match like the larger of the two; but I told him I could not promise him one before three weeks, and he went away without taking either, saying he would call again. I think he came back the next day, but I am not sure. I had told him that my son, who lived in Glasgow, had probably one that would match the larger. He then said he would take the two pistols on the condition of my giving one in exchange, if ever he came back again. Nothing more passed, and he paid me the money for them. I think it was 17*s.* he paid me altogether; but he



bought some other things. I think he bought a powder-flask, some powder, and some balls; but I am not sure of this. The flask was like that produced, but I cannot say it is the same, because I sold several like it about that time. I think I made him some balls.

Cross-examined by Mr. Clarkson.—By saying "think," I mean that I am not sure—that I am not certain upon the point.

Mr. William Ambrose, examined by the Solicitor-General.—I reside at Glasgow. I am a writer to the Signet; the same as a solicitor here. I was secretary to the Mechanics' Institute at Glasgow. I know the prisoner Daniel M'Naughton; I have known him since the spring of the year 1840. I have been in the habit of seeing him at the Glasgow Mechanics' Institution. He was in the habit of attending the lectures and classes there. He attended the anatomy class on one occasion; I was in the habit of seeing him; I knew him quite well. An attempt was made to get the rules of this institution altered, in which he took part. He joined with those who took the most prominent part in getting up a memorial for that purpose. He signed it, as I did also. This is the memorial. (Witness produced the document, but it was not read.) His name is the fifth. I partly prepared the memorial myself. After the memorial was sent in, a meeting of the members took place upon the subject, and the prisoner seconded the last resolution, which was for the appointment of a committee to take the subject of the proposed alteration into consideration. The prisoner was appointed one of that committee. I was in the habit of seeing him a good deal at this time. I did not observe anything about him to induce me to think that he was not in his right senses. He did not take any part in the lectures. He was one of the audience. He was in the habit of getting books from the library from time to time.

By Mr. Justice Williams.—He was two years attending the classes.

Examination resumed.—I saw him at his place of business in the autumn of 1841. I asked him whether he was still a member of the Mechanics' Institution. He said he was not. I had conversation with him of only a few minutes' duration in his place of work. I don't recollect seeing him after that. I did not observe any alteration in him.

Cross-examined by Mr. Cockburn.—I saw the prisoner in Stockwell, and, as far as I can recollect, it was in the year 1841. I am not sure of the precise date. I was secretary, and also director to the institution; but this did not necessarily bring me into direct connexion with the members. I recollect the meeting referred to, but I am not aware that the prisoner made any long speech on that occasion. He merely seconded the resolution. There was some anger exhibited at the meeting. I do not recollect on that occasion that the prisoner suddenly burst into a fit of laughter without any apparent cause. I have no distinct recollection what part of the room the prisoner was standing in at the meeting. I was on the platform. I cannot say whether or not he was in a corner by himself. The discussion was a very noisy one.

Mr. Wm. Swanstead, examined by Mr. Waddington.—I reside in Glasgow. I am curator of the museum in the Mechanics' Institution there, and have been so since 1831. I know the prisoner Daniel M'Naughton. I have seen him there. I cannot say exactly when the prisoner first became a member, but I think it was in 1834 or 1835. The prisoner attended Dr. Wood's lecture on physiology and popular anatomy; and in 1840 he attended Mr. Mackay's class of natural philosophy. I am also librarian. At this time, he was also in the habit of getting books, and I think he had 36 volumes during that year. He then ceased to be a member, and I did not see the prisoner from the year 1840 until May, 1842, and the last time he had a book was on the 16th of September of that year. I frequently conversed with the prisoner during these periods. The conversation was chiefly about the books or the affairs of the institution. I recollect the movement of the classes in 1840. I attended the meeting of the committee of the directors. I recollect the memorial which was presented for an alteration of the rules. The memorial produced is the same. I have seen Mr. M'Naughton attend a meeting of the sub-committee which prepared this memorial. I have been in the room when the committee were sitting, and I have heard him speak in the discussion upon the memorial. He spoke "tolerably fair," and made as respectable an appearance and spoke as sensibly as the rest. I never observed anything remarkable in his conversation or manner. When he returned to the institution in 1842 he was better dressed and cleaner than he used to be before. I frequently had conversations with him. He had 35 volumes entered in his name in the summer of 1842. He wished to have a book renewed, and I demanded the payment of a penny for the renewal; he demurred to pay it. I have seen him in company with a person named M'Clellan, who knew him well, another named Colin Graham, and a third named Nockold, who was a member of a Socialists' society. He had other associates also. I have seen him talking in the street with Nockold, and shake hands with him. I had occasionally some conversation with the prisoner about politics. He used to express himself warmly, but I cannot tell his expressions. The impression on my mind was —

Mr. Cockburn.—I object to the witness detailing his impressions or surmises. He should define the words and conduct of the prisoner which gave rise to those impressions.



Lord Chief Justice Tindal.—He may state, generally, what his opinion was of the conduct and appearance of the prisoner.

Examination resumed.—He used to speak in favour of the suffrage, but never defined anything particularly; he never said how the extension was to be effected.

Cross-examined by Mr. Clarkson.—I was examined in Glasgow upon the subject of this trial. I have never been in a public-house with the prisoner to drink with him. I never was at his lodgings. I know that some depositions have been taken by the Procurator Fiscal with respect to the state of the prisoner's mind. I know his habits; at least I knew he was very penurious. In the summer of 1840 I did not notice a change in his countenance, and particularly in his eyes. I did observe once, when he refused to give me a penny, that his eyes were fuller and more staring than usual. When I asked him for the penny, which was for the book he borrowed from the library, he stared and gave me a look with his eyes which made them look more staring and glazed like than before. I stated that I have seen him with M'Clellan and others very often at the time the memorial was under discussion. M'Clellan is here; Graham is not; Nockold I saw last in Glasgow. I cannot say how often I have seen the prisoner converse with the persons whose names I have mentioned, but I should say more than four times. I don't know what passed between the prisoner and Nockold when they spoke together. The prisoner was not exactly a member of the institution, but was one of the off-classes. I did not see the prisoner laugh aloud at the meeting in the middle of a speech without any cause; but Colin Graham told me a few weeks ago that he heard him do so. That is the Colin Graham who is not here to-day.

William M'Lellan, examined by Mr. Gurney.—I am a blacksmith residing at Glasgow; I know the prisoner M'Naughton: I have known him sixteen or seventeen years. He was about fifteen years old when I first knew him. He was then working for his father. For five years after that, I saw him almost every working day. I had been in the habit of seeing him up to last summer about once a fortnight. We used to attend the same classes. Three or four out of the last ten years, he has been in the habit of attending classes at the institution. I cannot say that I have observed anything peculiar in him.

Cross-examined by Mr. Bodkin.—I last saw him in August, 1842. He was then cleaner than formerly. There was nothing unusual about him. I noticed that he was paler also than formerly. I noticed, too, that he had acquired a habit of knitting his brows. I saw him also before he gave up business, once or twice rolling his eyes, a habit which he had not formerly. This was previously to the summer of 1842.

Mr. Bodkin.—Now remember that you were examined at Glasgow. Did you not say there that you had noticed this habit in 1842?

Witness.—No; I have said I observed these appearances, but my statement did not allude to the summer of 1842. He was a man of calm manners, and remarkably inoffensive disposition. I was never in his house in my life, and never knew any friend or companion of his, although I have known him ever since he was fifteen. I wrought in the same court, but not in the same shop.

James Douglas, M.D., examined by the Solicitor-General.—I am a surgeon; residing at Glasgow, and am in the habit of giving lectures on anatomy. I recognise the prisoner as having been a student of mine last summer. I had opportunities of speaking to him almost every day; I merely spoke to him on the subject of anatomy, and he spoke to me on the same subject. He seemed to understand it. I scarcely had any opportunity of judging of his knowledge, because he did not attend the examinations. He attended in the dissecting-room an hour a-day. He used to be reading there. I used to examine the students every Saturday. The prisoner did not attend then. The attendance was not compulsory—some pupils attended, and some did not. I had some talk with him frequently. He appeared to understand what he was about. I never observed anything to lead me to suppose his mind was disordered. I am in the habit of explaining in a familiar manner to the students the different parts of the body, independently of the lectures; I did so to M'Naughton as well as others. The lectures were five days in the week. I gave him a certificate of his having attended my lectures. I had not seen him until he was in custody, since the last day of July. When I saw him in custody he knew me. I expressed my surprise at seeing him there. He made some monosyllabic reply, but I could not tell what.

Cross-examined by Mr. Cockburn.—I went to the gaol to see the prisoner by the direction of Mr. Maule, the solicitor, simply for the purpose of identifying him. When he was attending in the dissecting-room he heard what I said, but did not take part in the conversation. I merely explained what he was reading and hearing, to him, so that I could not tell his progress. I observed nothing particular about him, except his being a man of little education. There was a want of polish about him. I think he was capable of understanding what was said to him.



Mr. Cockburn.—Now, sir, do you mean to say you had an opportunity of forming a judgment as to the man's sanity or insanity?

Witness.—No; I merely came to say that he appeared to understand what he heard of my lectures.

Joseph Forrester, examined by Mr. Waddington.—I am a hair-dresser by trade, and reside in Glasgow. I have known the prisoner for the last eighteen months. I knew him when he lodged at Mrs. Patterson's, in Clyde-street, Glasgow, and I have visited him there. We just used to talk together, but upon no particular subject beyond the mere occurrence of the day. When I went to see him I often found him reading. I never saw anything in his manner which led me to think he was not in his right senses, or that he was wrong in his intellect. I used to stay with him sometimes half an hour, sometimes two hours.

Cross-examined by Mr. Clarkson.—I never suspected there was anything wrong in the prisoner's mind. I know Mrs. Wilson, of Clyde-street, and also Mr. Patterson. It never occurred to me that I should like to come to London as a witness. I am not aware how the attorneys for the prosecution found me out, but the captain of the Anderston police first came to me upon the subject. He asked me whether I knew anything about M'Naughton, and I told him all I knew. I never offered myself as a witness to any one else. I never told Mrs. Patterson that I wished to come as a witness for the prisoner, neither did I ever tell Wilson, the baker, that M'Naughton was a "daft" man. I have spoken to Mrs. Patterson on several occasions respecting the prisoner. One night she told me she wondered I said he was right, as I had once said he was wrong, but I denied having said anything of the sort. She then said that I was tipsy. I am quite sober now.

Lachlan M'Gillivray, examined by the Solicitor-General.—I have known the prisoner for about fifteen years, and I am acquainted with his hand-writing. The witness identified the several letters and documents subsequently put in evidence as being in the hand-writing of the prisoner.

Robert Swanston, examined by Mr. Waddington.—I am a clerk in the London Joint Stock Bank. Both the papers produced were written by me, and are deposit receipts for money placed in that bank by the prisoner. The one dated the 7th of August is for 750*l.*, which was the sum he deposited with us. He subsequently called and wished to draw out 5*l.*, but I told him I could not let him have that sum, but he might have the whole amount if he pleased, and he gave notice of withdrawal; on the 28th of August he drew out the money, and having deducted 5*l.*, again deposited the remainder, to which the second paper referred, being a receipt for 745*l.* In consequence of the letter I received from the prisoner, and now produced, I transferred the amount to the Glasgow and Shipping Bank, through their agents Messrs. Glynn and Co., on the 1st of June last.

The Clerk of Arraignment here read the letter, which was in the following terms:—

"Glasgow, May 23, 1842.

"Sir,—I hereby intimate to you, that I will require the money ten days from this date which I deposited in the London Joint Stock Bank through you. The account is 745*l.*; the account is dated August 28, 1841, but is not numbered. As it would put me to some inconvenience to give personal intimation, and then remain in London till the eight days' notice agreed upon would expire, I trust that this will be considered sufficient.

"Yours, &c.,

"DANIEL M'NAUGHTON."

William Thomas, examined by the Solicitor-General.—I am a clerk in the bank of Messrs. Glynn and Co.; the Glasgow and Shipping Bank correspond with us. On the 29th of November I paid the sum of 20*l.* to the prisoner's draught on account of the Glasgow Bank, on the 29th of November, 1842.

Thomas M'Quigge, examined by the Solicitor-General.—I am an agent for advertisements; the advertisement produced was inserted in the *Spectator* newspaper by a gentleman for whom I acted; the letter produced I received in answer to that advertisement, and the note annexed to it is my reply.

The Solicitor-General.—Please to hand them in.

Mr. Anthony M'Nish, examined by Mr. Waddington.—I searched the prisoner's lodging at Glasgow, and found, amongst other things, a quantity of books and papers—a list of which I now produce.

The Solicitor-General.—I propose now, my lord, to read the advertisement and the letter in reply.

Chief Justice Tindal.—By all means.

The Clerk of Arraignment then read the advertisement:—

"OPTIONAL PARTNERSHIP.—Any gentleman having 1000*l.* may invest them, on the most advantageous terms, in a genteel business in London, attended with no risk; with the option, within a given period, of becoming a partner, and of ultimately succeeding to the



whole business. In the mean time security and liberal interest will be given for the loan. Apply by letter to 'B. B.,' Mr. Hilton's, bookseller, Penton-street, Pentonville."

The letter written by the prisoner in reply was next read, as follows:—

"Glasgow, 19th July, 1842.

"Sir,—My attention has been attracted to your advertisement in the *Spectator* newspaper, and, as I am unemployed at present, and very anxious to obtain some, I have been induced to write, requesting you to state some particulars regarding the nature of the business which you are engaged in. If immediate employment can be given or otherwise, what sort of security will be given for the money, and how much interest? I may mention that I have been engaged in business on my own account for a few years, am under thirty years of age, and of very active and sober habits.

"The capital which I possess has been acquired by the most vigilant industry, but unfortunately does not amount to the exact sum specified in your advertisement; if nothing less will do, I will be sorry for it, but cannot help it; if otherwise, have the goodness to write me at your earliest convenience, and address 'D. M. M.' 90, Clyde-street, Anderston, frontland, top flat."

The Solicitor-General.—That, my Lord, is the case on behalf of the Crown.

Mr. Cockburn applied to the Court to be allowed till the next morning before he entered upon the defence. He was himself labouring under very severe indisposition; and from the length to which the evidence on behalf of the prisoner would run, it would be impossible to close the proceedings that night.

Chief Justice Tindal inquired whether, if they adjourned at once, it was quite certain the remainder of the case would come within the compass of to-morrow.

Mr. Cockburn replied, that he hoped it would; but that would depend mainly upon the course pursued by the counsel for the crown.

Chief Justice Tindal said, if there was a probability of its being concluded to-morrow, the Court would at once accede to the learned counsel's request.

Mr. Cockburn said, that rather than make any statement which might mislead the Court, he would go on till a late hour to-night.

After a short consultation between the learned Judges,

Lord Chief Justice Tindal said, that whatever might be the consequences, the Court would at once adjourn the proceedings; as the learned counsel had intimated that he did not feel he could in his present state do justice to the prisoner.

Mr. Cockburn assured the Court, that he not only spoke with great pain, but he felt that if he proceeded he should not be able to address the jury at the length the importance of the case required.

The Sheriff's summoning officer, Mr. Hemp, and two of the Ushers of the Court, were then by direction of the Court sworn in the usual form, to take charge of the Jury,\* and the prisoner was removed from the bar.

## Second Day.

SATURDAY, 4th MARCH, 1843.

THE LORD CHIEF JUSTICE TINDAL, MR. JUSTICE WILLIAMS, and MR. JUSTICE COLERIDGE, took their seats upon the Bench shortly after nine o'clock, when the prisoner was again placed at the bar. The names of the gentlemen of the Jury having been called over, the proceedings were resumed by the opening of

## THE DEFENCE.

MR. COCKBURN.—May it please your Lordships—Gentlemen of the Jury—I rise to address you on behalf of the unfortunate prisoner at the bar, who stands charged with the awful crime of murder, under a feeling of anxiety so intense—of responsibility so overwhelming, that I feel almost borne down by the weight of my solemn and difficult task. Gentlemen,

\* The jury were escorted to apartments provided for them by the Sheriffs, (Mr. Alderman Hooper and Mr. Sheriff Pilcher,) at the London Coffee-house.



believe me when I assure you that I say this, not by way of idle or commonplace exordium, but as expressing the deep emotions by which my mind is agitated. I believe that you—I know that the numerous professional brethren by whom I see myself surrounded—will understand me when I say that of all the positions in which, in the discharge of our various duties in the different relations of life, a man may be placed, none can be more painful or more paralysing to the energies of the mind than that of an advocate to whom is committed the defence of a fellow being in a matter involving life and death, and who, while deeply convinced that the defence which he has to offer is founded in truth and justice, yet sees in the circumstances by which the case is surrounded, that which makes him look forward with apprehension and trembling to the result. Gentlemen, if this were an ordinary case—if you had heard of it for the first time since you entered into that box—if the individual who has fallen a victim had been some obscure and unknown person, instead of one whose character, whose excellence, and whose fate had commanded the approbation, the love, and the sympathy of all, I should feel no anxiety as to the issue of this trial. But alas! can I dare to hope that even among you, who are to pass in judgment on the accused, there can be one who has not brought to the judgment-seat a mind imbued with preconceived notions on the case which is the subject of this important inquiry? In all classes of this great community—in every corner of this vast metropolis—from end to end, even to the remotest confines of this extensive empire—has this case been already canvassed, discussed, determined—and that, with reference only to the worth of the victim, and the nature of the crime—not with reference to the state or condition of him by whom that crime has been committed—and hence there has arisen in men's minds an insatiate desire of vengeance—there has gone forth a wild and merciless cry for blood, to which you are called upon this day to minister! Yet do I not complain. When I bear in mind how deeply the horror of assassination is stamped on the hearts of men, above all, on the characters of Englishmen,—and believe me, there breathes no one on God's earth by whom that crime is more abhorred than by him who now addresses you, and who, deeply deploring the loss, and acknowledging the goodness—dwelt upon with such touching eloquence by my learned friend—of him who in this instance has been its victim, would fain add, if it may be permitted, an humble tribute to the memory of him who has been taken from us,—when I bear in mind, I say, these things, I will not give way to one single feeling—I will not breathe one single murmur of complaint or surprise at the passionate excitement which has pervaded the public mind on this unfortunate occasion. But I shall, I trust, be forgiven if I give utterance to the feelings of fear and dread by which, on approaching this case, I find my mind borne down, lest the fierce and passionate resentment to which this event has given rise, may interfere with the due performance of those sacred functions which you are now called upon to discharge. Yet, gentlemen, will I not give way to feelings of despair, or address you in the language of despondency. I am not unmindful of the presence in which I am to plead for the life of my client. I have before me British judges, to whom I pay no idle compliment when I say that they are possessed of all the qualities which can adorn their exalted station, or ensure to the accused a fair, a patient, and an impartial hearing—I am addressing a British jury—a tribunal to which truth has seldom been a suppliant in vain—I stand in a British court, where Justice, with Mercy for her handmaid, sits enthroned on the noblest of her altars, dispelling by the brightness of her presence the clouds which occa-



sionally gather over human intelligence, and awing into silence by the holiness of her eternal majesty the angry passions which at times intrude beyond the threshold of her sanctuary, and force their way even to the very steps of her throne. In the name of that eternal justice—in the name of that God, whose great attribute we are taught that justice is, I call upon you to enter upon the consideration of this case with minds divested of every prejudice, of every passion, of every feeling of excitement. In the name of all that is sacred and holy, I call upon you calmly to weigh the evidence which will be brought before you, and to give your judgment according to that evidence. And if this appeal be not, as I know it will not be, made to you in vain, then, gentlemen, I know the result, and I shall look to the issue without fear or apprehension. Gentlemen, my learned friend, (the Solicitor-General,) in stating this case to you, anticipated, with his usual acuteness and accuracy, the nature of the defence which would be set up. Most unquestionably, it is no part of my duty to attempt to conceal for an instant the main question upon which your decision will turn. I am not here to deny that the hand of the prisoner was raised against the deceased. The defence upon which I shall rely will turn, not upon the denial of the act with which the prisoner is charged, but upon the state of his mind at the time he committed the act. There is no doubt, gentlemen, that, according to the law of England, insanity absolves a man from responsibility and from the legal consequences which would otherwise attach to the violation of the law. And in this respect, indeed, the law of England goes no further than the law of every other civilized community on the face of the earth. It goes no further than what reason strictly prescribes; and, if it be not too presumptuous to scan the judgments of a higher tribunal, it may not be too much to believe and hope that when Providence, in its inscrutable wisdom and its unfathomable councils, thinks fit to lay upon a human being the heaviest and most appalling of all calamities to which in this world of trial and suffering human nature can be subjected—the deprivation of that reason, which is man's only light and guide in the intricate and slippery paths of life, will absolve him from his responsibility to the laws of God as well as to those of man. The law, then, takes cognizance of that disease which obscures the intellect and poisons the very sources of thought and feeling in the human being—which deprives man of reason, and converts him into the similitude of the lower animal—which bears down all the motives which usually stand as barriers around his conduct, and bring him within the operation of the Divine and human law—leaving the unhappy sufferer to the wild impulses which his frantic imagination engenders, and which urge him on with ungovernable fury to the commission of acts which his better reason, when yet unclouded, would have abhorred. The law, therefore, holds that a human being in such a state is exempt from legal responsibility and legal punishment: to hold otherwise would be to violate every principle of justice and humanity. The principle of the English law, therefore, as a general proposition, admits of no doubt whatsoever. But, at the same time, it would be idle to contend that in the practical application of this great principle difficulties do not occur. And therefore it is that I claim your utmost attention whilst I lay before you the considerations which present themselves to my mind upon this most important subject. I have already stated to you that the defence of the accused will rest upon his mental condition at the time when the offence was committed. The evidence upon which that defence is founded will be deserving of your most serious attention. I will content myself in the present stage,



by briefly stating its general character. It will be of a twofold description. It will not be such as that by which my learned friend the Solicitor-General has sought to anticipate the defence, and to establish the sanity of the prisoner. It will not be of that naked, vague, indefinite, and uncertain character; it will be testimony positive and precise, and I say, from the bottom of my heart, that I believe it will carry conviction to the mind of every one who shall hear it. It will be the evidence of persons who have known the prisoner from his infancy—of parties who have been brought into close and intimate contact with him—it will be the evidence of his relations, his friends, and his connexions; but as the evidence of near relations and connexions is always open to suspicion and distrust, I rejoice to say that it will consist also of the statements of persons whose testimony will be beyond the reach of all suspicion or dispute. Gentlemen, I will call before you the authorities of his native place, to one and all of whom this unfortunate calamity with which it has pleased Providence to afflict the prisoner at the bar was distinctly known—to all of whom he has from time to time, and again and again, applied for protection from the fancied miseries which his disordered imagination produced: all of them I will call, and their evidence will leave no doubt upon your minds that this man has been the victim of a fierce and fearful delusion, which, after the intellect had become diseased, the moral sense broken down, and self-control destroyed, has led him on to the perpetration of the crime with which he now stands charged. In addition to this evidence, I shall call before you members of the medical profession—men of intelligence, experience, skill, and undoubted probity—who will tell you upon their oaths that it is their belief, their deliberate opinion, their deep conviction, that this man is mad, that he is the creature of delusion, and the victim of ungovernable impulses, which wholly take away from him the character of a reasonable and responsible being. I need not point out to you the great importance and value of the latter description of testimony. You will not, I am sure, think that what I say is with the view, in the slightest degree, of disparaging your capacity, or of doubting your judgment, when I venture to suggest to you that of all the questions which can possibly come before a tribunal of this kind, the question of insanity is one which (except in those few glaring cases where its effects pervade the whole of a man's mind) is the most difficult upon which men not scientifically acquainted with the subject can be called upon to decide, and upon which the greatest deference should be paid to the opinions of those who have made the subject their peculiar study. It is now, I believe, a matter placed beyond doubt that madness is a disease of the body operating upon the mind, a disease of the cerebral organization; and that a precise and accurate knowledge of this disease can only be acquired by those who have made it the subject of attention and experience, of long reflection, and of diligent investigation. The very nature of the disease necessitates the seclusion of those who are its victims from the rest of the world. How can we, then, who in the ordinary course of life are brought into contact only with the sane, be competent to judge of the nice and shadowy distinctions which mark the boundary line between mental soundness and mental disease? I do not ask you, gentlemen, to place your judgment at the mercy, or to surrender your minds and understanding to the opinions, of any set of men—for after all, it must be left to your consciences to decide,—I only point out to you the value and importance of this testimony, and the necessity there is that you should listen with patient attention to the evidence of men of skill and science, who have made insanity the subject of their especial attention:



It now becomes necessary to consider what is the nature and degree of mental disease which in the eye of the law will have the effect of divesting the party afflicted with it from legal responsibility for his acts. My learned friend the Solicitor-General has directed your attention to the legal authorities which bear upon this question; and, perhaps, when those authorities shall have been minutely examined, no great difference will be found to exist between my learned friend and myself. But lest any confusion should be produced in your minds to the detriment of justice, you will forgive me if I pray your attention to the observations which I deem it my duty to make on this branch of the subject. I think it will be quite impossible for any person, who brings a sound judgment to bear upon this subject, when viewed with the aid of the light which science has thrown upon it, to come to the opinion that the ancient maxims, which, in times gone by, have been laid down for our guidance, can be taken still to obtain in the full force of the terms in which they were laid down. It must not be forgotten that the knowledge of this disease in all its various forms is a matter of very recent growth. I feel that I may appeal to the many medical gentlemen I see around me, whether the knowledge and pathology of this disease has not within a few recent years first acquired the character of a science? It is known to all that it is but as yesterday that the system of treatment, which in past ages—to the eternal disgrace of those ages—was pursued towards those whom it had pleased Heaven to visit with the heaviest of all human afflictions, and who were therefore best entitled to the tenderest care and most watchful kindness of their Christian brethren—it is but as yesterday, I say, that that system has been changed for another, which, thank God, exists to our honour, and to the comfort and better prospect of recovery of the unfortunate diseased in mind! It is but as yesterday that darkness and solitude—cut off from the rest of mankind like the lepers of old—the dismal cell, the bed of straw, the iron chain, and the inhuman scourge, were the fearful lot of those who were best entitled to human pity and to human sympathy, as being the victims of the most dreadful of all mortal calamities. This state of things has passed, or is passing fast away: But in former times when it did exist, you will not wonder that these unhappy persons were looked upon with a different eye. Thank God, at last—though but at last—humanity and wisdom have penetrated, hand in hand, into the dreary abodes of these miserable beings, and whilst the one has poured the balm of consolation into the bosoms of the afflicted, the other has held the light of science over our hitherto imperfect knowledge of this dire disease, has ascertained its varying character, and marked its shadowy boundaries, and taught us how, in gentleness and mercy, best to minister to the relief and restoration of the sufferer! You can easily understand, gentlemen, that when it was the practice to separate these unhappy beings from the rest of mankind and to subject them to this cruel treatment, the person whose reason was but partially obscured would ultimately, and perhaps speedily, in most cases, be converted into a raving madman. You can easily understand, too, that, when thus immured and shut up from the inspection of public inquiry, neglected, abandoned, overlooked—all the peculiar forms, and characteristics, and changes of this malady were lost sight of and unknown, and kept from the knowledge of mankind at large, and therefore how difficult it was to judge correctly concerning it. Thus I am enabled to understand how it was that crude maxims and singular propositions founded upon the hitherto partial knowledge of this disease, have been put forward and received as authority, although utterly inapplicable to many of the cases arising under the varied forms of insanity.



Science is ever on the advance; and no doubt, science of this kind, like all other, is in advance of the generality of mankind. It is a matter of science altogether; and we who have the ordinary duties of our several stations and the business of our respective avocations to occupy our full attention, cannot be so well informed upon it as those who have scientifically pursued the study and the treatment of the disease. I think, then, we shall be fully justified in turning to the doctrines of matured science rather than to the maxims put forth in times when neither knowledge, nor philanthropy, nor philosophy, nor common justice, had their full operation in discussions of this nature. My learned friend, the Solicitor-General, has read to you the authority of Lord Hale upon the subject matter of this inquiry. I hold in my hand perhaps the most scientific treatise that the age has produced upon the subject of insanity in relation to jurisprudence\*—it is the work of Dr. Ray, an American writer on medical jurisprudence, and a professor in one of the great national establishments of that country. Dr. Ray has considered the subject of my present observations, and in speaking of it he says, at the very beginning of his work, "Statutes were framed and principles of law laid down regulating the legal relations of the insane, long before physicians had obtained any accurate notions respecting their malady; and, as might naturally be expected, error and injustice have been committed to an incalculable extent, under the sacred name of law. The actual state of our knowledge of insanity, as well as of other diseases, so far from being what it has always heretofore been, is the accumulated result of the observations which, with more or less accuracy and fidelity, have been prosecuted through many centuries, under the guidance of a more or less inductive philosophy. In addition to the obstacles to the progress of knowledge respecting other diseases, there has been this also in regard to insanity, that being considered as resulting from a direct exercise of Divine power, and not from the operation of the ordinary laws of nature; and thus associated with mysterious and supernatural phenomena, confessedly above our comprehension, inquiry has been discouraged at the very threshold, by the fear of presumption, or at least of fruitless labour." Such are the introductory observations of this able writer on this subject. He goes on to say, touching the doctrine of Lord Hale—"Though little of pertinacious adherence to merely technical distinctions is observed in the application of the law to criminal cases," (he had previously been commenting on certain technical distinctions which prevail in the law as to insanity in civil matters,) "yet there is much of the same respect for antiquated maxims, that have little else to recommend them but their antiquity, and are so much the more pernicious in their application, as the interests of property are of less importance than reputation and life. It by no means follows that a person declared to be *non compos* by due process of law, is to be considered on that account merely to be irresponsible for his criminal acts. This is a question entirely distinct, and is determined upon very different views of the nature of insanity, and of its effects upon the operations of the mind; and here it is that the lawyer encroaches most on the domain of the physician. The first attempt to point out precisely those conditions of insanity in which the civil and criminal responsibilities are unequally affected, was made by Lord Hale." Then he quotes from Lord Hale a passage you heard read yesterday:—"1. There is a partial insanity of the mind; and, 2. a total insanity. The former is either in respect to things *quoad hoc vel illud insanire*—some per-

\* A Treatise on the medical jurisprudence of Insanity, by I. Ray, M.D. Boston, 1838.



sons that have a competent use of reason in respect of some subjects are yet under a particular *dementia* in respect of some particular discourses, subjects, or applications : or else it is partial in respect of degree ; and this is the condition of very many, especially melancholy persons, who, for the most part, discover their defect in excessive fears and griefs, and yet are not wholly destitute of the use of reason : and this partial insanity seems not to excuse them in the committing of any offence for its matter capital ; for, doubtless, most persons who are felons of themselves, and others, are under a degree of partial insanity. It is very difficult to determine the indivisible line that divides perfect and partial insanity ; but it must rest upon circumstances duly to be weighed and considered, both by judge and jury, lest, on the one side, there be a kind of inhumanity towards the defects of human nature ; or, on the other side, too great an indulgence given to great crimes. The best measure that I can think of is this : such a person as labouring under melancholy distempers hath yet ordinarily as great understanding as ordinarily a child of fourteen years hath, is such a person as may be guilty of treason or felony." Having quoted that passage, he says—"The doctrines thus dogmatically laid down by Lord Hale have exerted no inconsiderable influence on the judicial opinions of his successors ; and his high authority has always been invoked against the plea of insanity whenever it has been urged by the voice of philanthropy and true science. If, too, in consequence of the common tendency of indulging in forced and unwarrantable constructions whenever a point is to be gained, his principles have been made to mean far more than he ever designed, the fact impressively teaches the importance of clear and well-defined terms in the expression of scientific truths, as well as of enlarged practical information relative to the subjects to which they belong. In the time of this eminent jurist, insanity was a much less frequent disease than it now is, and the popular notions concerning it were derived from the observation of those wretched inmates of the mad-houses whom chains and stripes, cold and filth, had reduced to the stupidity of the idiot, or exasperated to the fury of a demon. Those nice shades of the disease in which the mind, without being wholly driven from its propriety, pertinaciously clings to some absurd delusion, were either regarded as something very different from real madness, or were too far removed from the common gaze, and too soon converted by bad management into the more active forms of the disease, to enter much into the general idea entertained of madness. Could Lord Hale have contemplated the scenes presented by the lunatic asylums of our own times, we should undoubtedly have received from him a very different doctrine for the regulation of the decisions of after generations." In like manner writes a physician of our own nation, who, I believe, is admitted by all persons familiar with this science, to be of equal authority with the most learned and scientific inquirers of the day,—I mean Dr. Prichard. He gives first the passage from Lord Hale, and speaks of his attempt to lay down a criterion for coming to a decision in cases of insanity. After referring to Hale's definition, he says—"This measure of the understanding might be in some manner applicable to the different degrees of imbecility or mental weakness ; but it would be impossible to refer to it any case of insanity, properly so termed, in which the powers of intellect are rather perverted and wrongly exercised, than obliterated or effaced. It would seem as if it were Lord Hale's opinion, that madness, properly so termed, produced no irresponsibility for crimes. Few or none of those who have attempted or perpetrated homicide, and who have been determined by judges, either in England or elsewhere, to be of unsound mind, and therefore not punishable for such acts, could have



escaped, if Lord Hale's precept had been followed. It must be confessed that the attempt made by this great jurist to lay down a rule for the guidance of opinions in such cases has completely failed."\* This is not the first time, gentlemen, that this doctrine of Lord Hale has been discussed, with the view to ascertain its true interpretation. One of those master minds whose imperishable productions form part of the intellectual treasure and birthright of their country—the great Lord Erskine, whose brilliant mind never shone forth more conspicuously than upon the occasion to which I am about to allude, and whose sentiments it would be presumption and profanation to give in other than the language which fell from his own gifted lips, at the celebrated trial to which allusion was made by my learned friend, put the true interpretation upon the doctrine of Lord Hale. I will read the passage, and I know you will pardon me the time I occupy; for who would not gladly spare the time to listen to observations coming from such a man, on so momentous an inquiry? Lord Erskine said:—"The Attorney-General, standing, undoubtedly, upon the most revered authorities of the law, has laid it down, that to protect a man from *criminal responsibility* there must be a *total* deprivation of memory and understanding. I admit that this is the very expression used both by Lord Coke and by Lord Hale; but the true interpretation of it deserves the utmost attention and consideration of the court. If a *total deprivation of memory* was intended by those great lawyers to be taken in the literal sense of the words—if it was meant that, to protect a man from punishment, he must be in such a state of prostrated intellect as not to know his name, nor his condition, nor his relation towards others—that, if a husband, he should not know he was married; or, if a father, could not remember that he had children, nor know the road to his house, nor his property in it—then no such madness ever existed in the world. It is idiocy alone which places a man in this helpless condition, where, from an original mal-organization, there is the human frame alone without the human capacity, and which, indeed, meets the very definition of Lord Hale himself, when, referring to Fitzherbert, he says—'Idiocy or fatuity *à nativitate, vel dementia naturalis*, is such a one as described by Fitzherbert, who knows not to tell twenty shillings, nor knows his own age, nor who was his father.' But, in all the cases which have filled Westminster Hall with the most complicated considerations, the lunatics, and other insane persons who have been the subject of them, have not only had memory *in my sense of the expression*—they have not only had the most perfect knowledge and recollection of all the relations they stood in towards others, and of the acts and circumstances of their lives, but have in general been remarkable for subtlety and acuteness. Defects in their reasonings have seldom been traceable—the disease consisting in the delusive sources of thought—all their deductions within the scope of the malady being founded upon the immovable assumption of matters as realities, either without any foundation whatsoever, or so distorted and disfigured by fancy, as to be almost nearly the same thing as their creation. It is true, indeed, that in some, perhaps in many cases, the human mind is stormed in its citadel, and laid prostrate under the stroke of frenzy; these unhappy sufferers, however, are not so much considered by physicians as maniacs, but to be in a state of delirium, as from fever. There, indeed, all the ideas are overwhelmed, for reason is not merely disturbed, *but driven wholly from her seat*. Such unhappy persons are unconscious, therefore, except at short intervals, even of external

\* "On the Different Forms of Insanity, in Relation to Jurisprudence, by James Cowles Prichard, M.D. London, 1842."



objects, or, at least, are wholly incapable of considering their relations. Such persons, *and such persons alone* (except idiots) *are wholly deprived of their understandings* in the Attorney-General's seeming use of that expression. But these cases are not only extremely rare, but never can become the subjects of judicial difficulty. There can be but one judgment concerning them. In other cases reason is not driven from her seat, but distraction sits down upon it along with her, holds her trembling upon it, and frightens her from her propriety. Such patients are victims to delusions of the most alarming description, which so overpower the faculties, and usurp so firmly the place of reason, as not to be dislodged and shaken by the organs of perception and sense. In such cases, the images frequently vary, but in the same subject are generally of the same terrific character. Here, too, no judicial difficulties can present themselves; for who could balance upon the judgment to be pronounced in cases of such extreme disease? Another class, branching out into almost infinite subdivisions, under which, indeed, the former and every case of insanity may be classed, is, when the delusions are not of that frightful character, but infinitely various and often extremely *circumscribed*; yet where imagination (*within the bounds of the malady*) still holds the most uncontrollable dominion over reality and fact; *and these are the cases which frequently mock the wisdom of the wisest in judicial trials*; because such persons often reason with a subtlety which puts in the shade the ordinary conceptions of mankind. Their conclusions are just and frequently profound; but the premises from which they reason when within the range of the malady are uniformly false—not false from any defect of knowledge or judgment, but because a delusive image, the inseparable companion of real insanity, is thrust upon the subjugated understanding, incapable of resistance because unconscious of attack. Delusion, therefore, when there is no frenzy or raving madness, is the true character of insanity; and when it cannot be predicated of a man standing for life or death for a crime, he ought not, in my opinion, to be acquitted, and it courts of law were to be governed by any other principle, every departure from sober, rational conduct would be an emancipation from criminal justice. I shall place my claim to your verdict upon no such dangerous foundation. I must convince you, not only that the unhappy prisoner was a lunatic within my own definition of lunacy, but that the act in question was the immediate, unqualified offspring of the disease. You perceive, therefore gentlemen, that the prisoner, in naming me for his counsel, has not obtained the assistance of a person who is disposed to carry the doctrine of insanity in his defence so far as even the books would warrant me in carrying it. He alone can be so emancipated whose disease (call it what you will) consists not merely in seeing with a prejudiced eye, or with odd and absurd particularities, differing, in many respects, from the contemplations of sober sense upon the actual existence of things; but he only whose whole reasoning and corresponding conduct, though governed by the ordinary dictates of reason, proceed upon something which has no foundation or existence." Such, gentlemen, is the language of this great man, and in this doctrine is the true interpretation of the law to be found. Gentlemen, that argument prevailed with the court and jury in the case of the person on behalf of whom it was urged. Upon that argument, I take my stand this day. I will bring this case within the scope of the incontrovertible and unanswerable reasoning which it comprises, and I feel perfectly confident that upon you, gentlemen, this reasoning will not be lost, but that the same result will follow in this as did in that memorable case. My learned



friend, the Solicitor-General, has cited to you one or two other cases which I will dispose of in a very few words. A prominent case in his list is that of Earl Ferrers. Here, too, I am glad that my learned friend has referred to the celebrated case of Hadfield, because that case furnishes me with some valuable observations of Lord Erskine's, made on Hadfield's trial, which will enable me to shew how that great authority disposed of two of the cases relied on by my learned friend. I prefer to read to you, gentlemen, those observations rather than trouble you with any of my own. After stating Lord Ferrers' case and drawing the distinction between the species of insane delusion which produces erratic acts, and that species of insanity which I trust I shall be able to prove to you possessed the prisoner now at the bar, Lord Erskine says, "I have now lying before me the case of Earl Ferrers. Unquestionably there could not be a shadow of doubt, and none appears to have been entertained, of his guilt. I wish, indeed, nothing more than to contrast the two cases; and so far am I from disputing either the principle of that condemnation, or the evidence that was the foundation of it, that I invite you to examine whether any two instances in the whole body of the criminal law are more diametrically opposite to each other than the case of Earl Ferrers and that now before you. Lord Ferrers was divorced from his wife by act of Parliament; and a person of the name of Johnson, who had been his steward, had taken part with the lady in that proceeding, and had conducted the business in carrying the act through the two Houses. Lord Ferrers consequently wished to turn him out of a farm which he occupied under him; but his estate being in trust, Johnson was supported by the trustees, in his possession. There were also some differences respecting coal-mines, and in consequence of both transactions Lord Ferrers took up the most violent resentment against him. Let me here observe," continues Lord Erskine, "that this was not a resentment founded upon any illusion; not a resentment forced upon a distempered mind by fallacious images, but depending upon actual circumstances and real facts; and acting like any other man under the influence of malignant passions, he repeatedly declared that he would be revenged on Mr. Johnson, particularly for the part he had taken in depriving him of a contract respecting the mines. Now, suppose that Lord Ferrers could have shewed that no difference with Mr. Johnson had ever existed regarding his wife at all, that Mr. Johnson had never been his steward, and that he had only, from delusion, believed so when his situation in life was quite different. Suppose, further, that an illusive imagination had alone suggested to him that he had been thwarted by Johnson in his contract with these coal-mines, there never having been any contract at all for coal-mines; in short, that the whole basis of his enmity was without any foundation in nature, and had been shewn to have been a morbid image imperiously fastened upon his mind. Such a case as that would have exhibited a character of insanity in Lord Ferrers, extremely different from that in which it was presented by the evidence of his peers. Before them he only appeared as a man of turbulent passions, whose mind was disturbed by no fallacious images of things without existence, whose quarrel with Johnson was founded upon no illusions, but upon existing facts, and whose resentment proceeded to the fatal consummation with all the ordinary indications of mischief and malice, and who conducted his own defence with the greatest dexterity and skill. Who then could doubt that Lord Ferrers was a murderer? When the act was done, he said—'I am glad I have done it. He was a villain, and I am revenged;' but when he afterwards saw that the wound was probably



mortal, and that it involved consequences fatal to himself, he desired the surgeon to take all possible care of his patient; and, conscious of his crime, kept at bay the men who came with arms to arrest him; shewing, from the beginning to the end, nothing that does not generally accompany the crime for which he was condemned. He was proved, to be sure, to be a man subject to unreasonable prejudices, addicted to absurd practices, and agitated by violent passions; but the act was not done under the dominion of uncontrollable disease; and whether the mischief and malice were substantive, or marked in the mind of a man whose passions bordered upon, or even amounted to insanity, it did not convince the lords, that, under all the circumstances of the case, he was not a fit object of criminal justice." Thus, gentlemen, Lord Erskine shewed the greatest possible contrast between the two cases; and I shall, in the case now before you, do the same thing. My learned friend has also called your attention to the case of Arnold. That case was also disposed of by Lord Erskine, and here, gentlemen, is his answer to it:—"In the same manner, Arnold, who shot at Lord Onslow, and who was tried at Kingston soon after the Black Act passed, on the accession of George I. Lord Onslow having been very vigilant as a magistrate in suppressing clubs, which were supposed to have been set on foot to disturb the new Government, Arnold had been frequently heard to declare, that Lord Onslow would ruin his country; and, although he appeared, from the evidence, to be a man of most wild and turbulent manners, yet the people, round Guildford, who knew him did not in general consider him to be insane. His counsel could not shew any morbid delusion had ever overshadowed his understanding. They could not shew, as I shall, that just before he shot at Lord Onslow, he had endeavoured to destroy his own beloved child. It was a case of human resentment." Gentlemen, here permit me also to call your attention to the way in which this case of Arnold has been treated upon by the same able and learned writer to whom I have already referred—I mean Dr. Ray. Dr. Ray says,\*—"Arnold seems to have been of weak understanding from his birth, and to have led an idle, irregular, and disordered life, sometimes unequivocally mad, and at all times considered exceedingly strange and different from other people; one witness describing him as a strange, sullen boy at school, such as he had never seen before. It was testified by his family and his neighbours, that for several years previous they had considered and treated him as mad occasionally, if not always, although so little disposed to mischief that he was suffered to be at large. Contrary to the wishes of his friends, he persisted in living alone in a house destitute of the ordinary conveniences; was in the habit of lying about in barns and under hay-ricks; would curse and swear to himself for hours together; laugh and throw things about the house without any cause whatever, and was much disturbed in his sleep by fancied noises. Among other unfounded notions, he believed that Lord Onslow, who lived in his neighbourhood, was the cause of all the tumults, disturbances, and wicked devices that happened in the country, and his thoughts were greatly occupied with this person. He was in the habit of declaring that Lord Onslow sent his devils and imps into his room at night to disturb his rest, and that he constantly plagued and bewitched him, by getting into his belly or bosom, so that he could neither eat, drink, nor sleep for him. He talked much of being plagued by the Bollies and Bolleroyes; he declared in prison it was better

\* Ray's Treatise on the Medical Jurisprudence of Insanity, § 10, p. 18.



to die than to live so miserably, and manifested no compunction for what he had done. Under the influence of these delusions he shot at and wounded Lord Onslow." Dr. Ray goes on to say—"The proof of insanity was strong enough, but not that degree of it, which the jury considered sufficient to save him from the gallows, and he was accordingly sentenced to be hung. Lord Onslow himself, however, thought differently; and, by means of his intercession, the sentence was not executed, and Arnold was continued in prison for life." Dr. Ray then makes this observation on the case—"It is clear, that the court recognised that class of madmen only, as exempted from the penal consequences of crime, whose reason is completely dethroned from her empire, and who are reduced to the condition of an infant, a brute, or a wild beast. If it be true, that such, as the court said, are never the objects of punishment, though it neglected to state that they are never the objects of prosecution, the converse must be equally true, that those not exactly in this condition can never avoid punishment on the plea of insanity. It appears, then, that the law at that time did not consider an insane person irresponsible for crime, in whom there remained the slightest vestige of rationality; though it did then and has ever since deprived him of the management of himself and his affairs, and vitiates his civil acts, even when they have no relation to the circumstances that caused his madness." This, gentlemen, is one of the cases in which this most able writer on Medical Jurisprudence, combining with great reasoning powers and general scientific knowledge, his own personal experience as a physician, and taking the most enlightened view of the subject, not with a mawkish and sentimental, but with a manly and sound philosophy, considers that the doctrines laid down when the subject was not sufficiently apprehended and understood, have led to the fatal results in the administration of justice. Gentlemen, I will now go on to another case cited by my learned friend the Solicitor-General. I allude to the case of Bowler, which is reported in *Collinson on Lunacy*. I trust, gentlemen, I shall not be considered open to the imputation of arrogance, or as travelling out of the line of my duty on the present occasion, if I say that I cannot bring myself to look upon that case without a deep and profound sense of shame and sorrow that such a decision as was there come to, should ever have been resolved upon by a British jury, or sanctioned by a British Judge. What, when I remember that in that case Mr. Warburton, the keeper of a lunatic asylum, was called and examined, and that he stated that the prisoner Bowler had, some months previously, been brought home apparently lifeless, since which time he had perceived a great alteration in his conduct and demeanour; that he would frequently dine at nine o'clock in the morning, eat his meat almost raw, and lie on the grass exposed to rain; that his spirits were so dejected that it was necessary to watch him lest he should destroy himself—when I remember that it was further proved in that case that it was characteristic of insanity occasioned by epilepsy for the patients to imbibe violent antipathies against particular individuals, even their dearest friends, and a desire of taking vengeance upon them, from causes wholly imaginary, which no persuasion could remove, and yet the patient might be rational and collected upon every other subject,—when I also recollect that a commission of lunacy had been issued and an inquisition taken upon it, whereby the prisoner was found to have been insane from a period anterior to the offence,—when all these recollections cross my mind, I cannot help looking upon that case with feelings bordering upon indignation. But, gentlemen, I rejoice to say—because it



absolves me from the imputation of presumption or arrogance in thus differing from the doctrines laid down in that case by the learned judge, and adopted by the jury—that in the view which I have taken of it I am borne out by the authority of an English judge now living amongst us—a judge, who is, and I trust will long continue to be, one of the brightest ornaments of a profession, which has, through all times, furnished such shining examples to the world. I refer, gentlemen, to Mr. Baron Alderson, and the opinion that learned judge pronounced upon Bowler's case on the recent trial of Oxford in this court; and I must say that I think if the attention of my learned friend the Solicitor-General had been drawn to that case,—if he had heard or read the observations made by Mr. Baron Alderson on that occasion, he would not now have pressed Bowler's case upon your notice. The Attorney-General of that day, the present Lord Campbell, in conducting the prosecution against Oxford for shooting at her Majesty, had, in his address to the jury, cited the case of Bowler. When he came to the close of it, Mr. Baron Alderson interrupted him with this observation—"Bowler, I believe, was executed, and *very barbarous it was!*" Such was the expression of Mr. Baron Alderson upon the mention of Bowler's case, and I rejoice to be able to cite it. I reverence the strength of feeling which alone could have given rise to that strength of expression; and I am sure that if the attention of my learned friend had been directed to such an observation coming from so high an authority, I know my learned friend's discretion and sense of propriety too well to think he would have cited Bowler's case for your guidance. Gentlemen, you will therefore, I am sure, dismiss that case from your minds after so clear and decided an exposition of the fallacious views which led to that decision. Let the error in that case, I implore you, operate as a warning to you not to be carried away headlong by antiquated maxims or delusive doctrines. God grant that never in future times may any authority, judicial or otherwise, have reason in this case to deplore the consequences of a similar error—never may it be in the power of any man to say of you, gentlemen, that you agreed to a verdict which in itself, or in its execution, deserved to be designated as barbarous. I pass now, gentlemen, to the next case cited by my learned friend, the Solicitor-General,—the case of Bellingham. All I can say of that case is, that I believe, in the opinion of the most scientific men who have considered it, there now exists no doubt at all that Bellingham was a madman. Few, I believe, at this period, unbiassed by the political prejudices of the times, and examining the event as a matter of history, will read the report of Bellingham's trial without being forced to the conclusion that he was really mad, or, at the very least, that the little evidence which did appear relative to the state of his mind was strong enough to have entitled him to a deliberate and thorough investigation of his case. The eminent writer I have already quoted—I mean Dr. Ray—in speaking of Bellingham's case, says,\*—"It appeared from the history of the accused, from his own account of the transactions that led to the fatal act, and from the testimony of several witnesses, that he laboured under many of those strange delusions that find a place only in the brains of a madman. His fixed belief that his own private grievances were national wrongs; that his country's diplomatic agents in a foreign land neglected to hear his complaints and assist him in his troubles, though they had in reality done more than could have reasonably been expected of them;

\* Ray's Med. Jurisp., p. 29, sec. 15.



his conviction, in which he was firm almost to the last, that his losses would be made good by the government, even after he had been repeatedly told, in consequence of repeated applications in various quarters, that the government would not interfere in his affairs; and his determination, on the failure of all other means to bring his affairs before the country, to effect this purpose by assassinating the head of the government, by which he would have an opportunity of making a public statement of his grievances and obtaining a triumph, which he never doubted, over the attorney-general; these were all delusions, as wild and strange as those of seven-eighths of the inmates of any lunatic asylum in the land. And so obvious were they, that though they had not the aid of an Erskine to press them upon the attention of the jury, and though he himself denied the imputation of insanity, the government, as if virtually acknowledging their existence, contended for his responsibility on very different grounds." Gentlemen, it is a fact that Bellingham was hanged within one week after the commission of the fatal act, while persons were on their way to England who had known him for years, and who were prepared to give decisive evidence of his insanity. He was tried—he was executed, notwithstanding the earnest appeal of Mr. Alley, his counsel, that time might be afforded him to obtain evidence as to the nature and extent of the malady to which Bellingham was subject. Again, Dr. Prichard, also, speaking with reference to the same trial, says, "I believe few persons now entertain any doubt of Bellingham's insanity."\* Moreover, on the occasion of the trial of Oxford in this court, the then attorney-general, Sir John Campbell, now Lord Campbell, after Bowler's case had been disposed of by the emphatic observation of Mr. Baron Alderson, expressed himself in these words, "I will not refer to Bellingham's case, as there are some doubts as to the correctness of the mode in which that case was conducted." I would that my learned friend the Solicitor-General had taken on this occasion the same course, and had exercised the same wise forbearance; because the doubts expressed by the late attorney-general, as to the propriety of the conduct of that case, are not confined to that learned person, it being notorious that very serious doubts as to the propriety of that trial are commonly entertained among the profession at large. Under such circumstances, gentlemen, I feel that it would have been much better if your attention had not been directed to that trial as it has been. I turn now to a very recent treatise on criminal law, which I am the more entitled to cite as an authority, because its learned author, Mr. Roscoe, has been snatched from us by the hand of death, while his career was full of that promise which his great attainments and varied learning held out to us. Referring to the rule laid down in the case of Bellingham, and which you have been told was adopted by Lord Lyndhurst in the "*Rex v. Orford*," Mr. Roscoe says—"The direction does not appear to make a sufficient allowance for the incapacity of judging between right and wrong upon the very matter in question, as in all cases of monomania."† Mr. Roscoe quotes some remarks by an eminent writer on the criminal law of Scotland. Now, I may here observe, that I have the authority of the present Lord Campbell, when attorney-general, in Oxford's case, for saying that there is no difference between the law of Scotland and that of England in this respect; so that all which I may have to cite with respect to the law of Scotland will be quite applicable to the case in hand. Gentlemen, Mr. Roscoe goes on to say—"The follow-

\* Prichard on Insanity, p. 29.

† Roscoe Digest of the Law in Criminal Cases, p. 876.



ing observations of an eminent writer on the criminal law of Scotland (Mr. Alison) are applicable to the subject. Although a prisoner understands perfectly the distinction between right and wrong, yet if he labours, as is generally the case, under an illusion and deception in his own particular case, and is thereby incapable of applying it correctly to his own conduct, he is in that state of mental aberration which renders him not criminally answerable for his actions. For example: a mad person may be perfectly aware that murder is a crime, and will admit it, if pressed on the subject; still he may conceive that the homicide he has committed was nowise blamable, because the deceased had engaged in a conspiracy, with others, against his own life, or was his mortal enemy, who had wounded him in his dearest interests, or was the devil incarnate, whom it was the duty of every good Christian to meet with weapons of carnal warfare." These observations of Mr. Roscoe and Mr. Alison, when applied to the cases of Bellingham, of Arnold, and of Orford, shew that they are not cases to be relied upon as perfect—that the doctrine laid down in them cannot be taken as an unerring criterion by a jury. Unless you attend to all the circumstances of the particular case, you may be led into disastrous results, which it must be your most anxious wish to avoid. Gentlemen, I have now gone through all the cases cited by my learned friend, except that of the King v. Orford, which my learned friend quoted, in order to shew that Lord Lyndhurst concurred in the view of the law as laid down by Sir James Mansfield. So far as the observations of the learned judge went, they are reported very shortly, as cases of this kind usually are, and, it may be, that if the observations had been taken in their entirety, it might have altered the complexion of the judgment. But what were the facts of that case? Let me call your attention to the facts as stated in the report of the case. "The prisoner Orford was indicted for the murder of a person named Chisnall, by shooting him with a gun. The defence was, insanity. It appeared that the prisoner laboured under a notion that the inhabitants of Hadleigh, and particularly Chisnall, the deceased, were continually issuing warrants against him, with intent to deprive him of his liberty and life; that he would frequently, under the same notion, abuse persons whom he met in the street, and with whom he had never had any dealings or acquaintance of any kind. In his waistcoat pocket a paper was found, headed 'List of Hadleigh conspirators of my life.' It contained forty or fifty names, and among them Chisnall and his family. There was also found among his papers an old summons about a rate, at the foot of which he had written, 'This is the beginning of an attempt against my life.' Several medical witnesses deposed to the belief that, from the evidence they had heard, the prisoner laboured under that species of insanity which is called monomania."

CHIEF JUSTICE TINDAL.—From what are you quoting, Mr. Cockburn?

MR. COCKBURN.—From the 5th volume of *Carrington and Payne's Reports*, page 568, my lord—"Several medical witnesses deposed to the belief that, from the evidence they had heard, the prisoner laboured under that species of insanity which is called monomania, and that he committed the act while under the influence of that disorder, and might not be aware that, in firing the gun, his act involved the crime of murder. Lord Lyndhurst, in summing up, told the jury that they must be satisfied, before they could acquit the prisoner on the ground of insanity, that he did not, know when he committed the act, what the effect of it, if fatal, would be with reference to the crime of murder. The question was, did he know that he was



committing an offence against the laws of God and nature? His lordship referred to the doctrine laid down in Bellingham's case by Sir James Mansfield, and expressed his complete accordance in the observations of that learned judge." The verdict was—*Not guilty*. I think my learned friend did not state to you the verdict.

THE SOLICITOR GENERAL.—I beg your pardon ; I did.

MR. COCKBURN.—If so, I was in error, and on my learned friend's statement, I withdraw at once the observation I made. I am sorry that I made it ; and here let me take the opportunity of expressing my sense—and I am sure my learned friend will not object to receive such a tribute from me—of the forbearance and merciful consideration with which he opened and has conducted this case. I am bound also to say, that whatever facilities could be afforded to the defence, have been readily granted to the prisoner's friends by those who represent the Crown on this occasion. But to resume. With respect, then, to Orford's case, I have only to remind you that Orford was acquitted on the ground of insanity. Here, gentlemen, I shall prove a much stronger case ; and when I have done so, you will, I feel confident, have no hesitation in following the precedent set you by the jury in that case. So much, gentlemen, for the legal authorities cited by my learned friend, the Solicitor-General ; but, after all, as was observed by him, this is not so much a question of law as of fact. That which you have to determine is, whether the prisoner at the bar is guilty of the crime of wilful murder. Now, by "wilful" must be understood, not the mere will that makes a man raise his hand against another ; not a blind instinct that leads to the commission of an irrational act,—because the brute creation, the beasts of the field, have, in that sense, a will ;—but by will, with reference to human action, must be understood the necessary moral sense that guides and directs the volition, acting on it through the medium of reason. I quite agree with my learned friend, that it is a question—being, namely, whether this moral sense exists or not—of fact rather than of law. At the same time, whatever light legal authorities may afford on the one hand, or philosophy and science on the other, we ought to avail ourselves of either with grateful alacrity. This being premised, I will now take the liberty of making a few general observations upon what appears to me to be the true view of the nature of this disease with reference to the application of the important principle of criminal responsibility. To the most superficial observer who has contemplated the mind of man, it must be perfectly obvious that the functions of the mind are of a twofold nature—those of the intellect or faculty of thought alone—such as perception, judgment, reasoning—and again, those of the moral faculties—the sentiments, affections, propensities, and passions, which it has pleased Heaven, for its own wise purposes, to implant in the nature of man. It is now received as an admitted principle by all inquirers, that the seat of the mental disease termed insanity is the cerebral organization ; that is to say, the brain of man. Whatever and wherever may be the seat of the immaterial man, one thing appears perfectly clear to human observation, namely—that the point which connects the immaterial and the material man—is the brain ; and, furthermore, it is clear that all defects in the cerebral organization, whether congenital—that is to say, born with a man—or supervening either by disease or by natural and gradual decay, have the effect of impairing and deranging the faculties and functions of the immaterial mind. The soul is there as when first the Maker breathed it into man ; but the exercise of the intellectual and moral faculties is vitiated and disordered. Again ; a further view of



the subject is this—it is one which has only been perfectly understood and elucidated in its full extent by the inquiries of modern times. By any one of the legion of casualties by which the material organization may be affected, any one or all of these various faculties of the mind may be disordered,—the perception, the judgment, the reason, the sentiments, the affections, the propensities, the passions—any one or all may become subject to insanity ; and the mistake existing in ancient times, which the light of modern science has dispelled, lay in supposing that in order that a man should be mad—incapable of judging between right and wrong, or of exercising that self-control and dominion, without which the knowledge of right and wrong would become vague and useless—it was necessary that he should exhibit those symptoms which would amount to total prostration of the intellect ; whereas, modern science has incontrovertibly established that any one of these intellectual and moral functions of the mind may be subject to separate disease, and thereby man may be rendered the victim of the most fearful delusions, the slave of uncontrollable impulses impelling or rather compelling him to the commission of acts such as that which has given rise to the case now under your consideration. This is the view of the subject on which all scientific authorities are agreed—a view not only entertained by medical, but also by legal authorities. It is almost with a blush that I now turn from the authorities in our own books, to those which I find in the works of the Scottish writers on Jurisprudence. I turn to the celebrated work of a profound and scientific jurist, I allude to Baron Hume. He treats on the very subject which is now, gentlemen, under your consideration—namely, the test of insanity as a defence with reference to criminal acts, and he says\*—

Next, after minors, we may attend to the case of those unfortunate persons who have to plead the more miserable defence of idiocy, which if it is not pretended but genuine, and is withal of the due degree and is fully proved, brings the act to the same as that of an infant, and has equally the privilege in all cases of an entire exemption from any manner of penalty. “Cum alterum innocentia concilii tuetur, alterum fati infelicitas excusat ;” I say, “where it is fully proved and is of the due degree ;” for if reason and humanity enforce the plea in these circumstances, it is no less necessary to observe such a caution and temperament in the application of it, as shall hinder it to be understood that there is any privilege of mere weakness of intellect, or of a strange and moody humour, or of a crazy and capricious, or irregular temper and habit ; none of these things either are, or ought to be, law. Because such constitutions are neither exclusive of a competent understanding of the true state of the circumstances in which the deed is done, nor of the subsistence of some steady evil passions grounded in that situation and directed to a certain object. To serve the purpose, therefore, of an excuse in law, the disorder must amount to absolute alienation of reason, “ut continua mentis alienatione, omni intellectu careat”—such a disease as deprives the patient of the knowledge of the true disposition of things about him, and of the discernment of friend from foe, and gives him up to the impulse of his own distempered fancy, divested of all self-government or control of his passions. Whether it should be added to the description that he must have lost all knowledge of good and evil, right and wrong, is a more delicate question, and fit, perhaps, to be resolved differently, according to the sense in which it is understood. If it be put in this sense in a case, for instance, of murder—Did the panel know that murder was a crime ? Would he have answered on the question, that it is wrong to kill a neighbour ? This is hardly to be reputed a just criterion of such a state of soundness as ought to make a man accountable in law for his acts. Because it may happen to a person, to answer in this way, who yet is so absolutely mad as to have lost all true observation of facts, all understanding of the good or bad intention of those who are about him, or even the knowledge of their persons. But if the question is put in this other and more special sense, as relative to the act done by the panel, and his understanding of the particular situation in which he conceived himself to stand. Did he at that moment understand the evil of what he did ? Was he impressed with the consciousness of guilt and fear of punishment ?—it is then a pertinent and a material question, but which cannot, to any substantial purpose, be answered, without

\* Hume's Commentaries on the Law of Scotland, Vol. i., p. 37.



taking into consideration the whole circumstances of the situation. Every judgment in the matter of right and wrong supposes a case, or state of facts, to which it applies. And though the panel may have that vestige of reason which may enable him to answer in the general, that murder is a crime, yet if he cannot distinguish his friend from his enemy, or a benefit from an injury, but conceive everything about him to be the reverse of what it really is, and mistake the illusions of his fancy for realities in respect of his own condition and that of others, those remains of intellect are of no use to him towards the government of his actions, nor in enabling him to form a judgment on any particular situation or conjunction of what is right or wrong with regard to it; if he does not know the person of his friend or neighbour, or though he do know him, if he is possessed with the vain conceit that he is come there to destroy him, or that he has already done him the most cruel injuries, and that all about him are engaged in one foul conspiracy to abuse him, as well might he be utterly ignorant of the quality of murder. Proceeding as it does on a false case or conjuration of his own fancy, his judgment of right and wrong, as to any responsibility that should attend it, is truly the same as none at all. It is, therefore, only in this complete and appropriated sense as relative to the particular thing done, and the situation of the panel's feelings and consciousness on that occasion, that this inquiry concerning his intelligence of moral good or evil is material, and not in any other or larger sense.

This, gentlemen, I take to be the true interpretation and construction of the law. The question is not here, as my learned friend would have you think, whether this individual knew that he was killing another when he raised his hand to destroy him, although he might be under a delusion, but whether under that delusion of mind he did an act which he would not have done under any other circumstances, save under the impulse of the delusion which he could not control, and out of which delusion alone the act itself arose. Again, gentlemen, I must have recourse to the observations of that eminent man, Lord Erskine. I am anxious, most anxious on this difficult subject, feeling deeply my own incapacity, and that I am but as the blind leading the blind, (you will forgive me the expression;) I am, I repeat, anxious to avail myself as much as possible of the great light which others have thrown upon the subject, and to avoid any observations of my own by referring to the remarks of much greater minds. I turn again, therefore, to the remarks of Lord Erskine on the subject of delusion. in the case which has so often been mentioned. The case here is one of delusion—the act in question is connected with that delusion out of which, and out of which alone, it sprung. “Delusion,” says Lord Erskine, “therefore, where there is no frenzy or raving madness, is the true character of insanity, and where it cannot be predicated of a man standing for life or death for a crime, he ought not, in my opinion, to be acquitted; and if the courts of law were to be governed by any other principle, every departure from sober rational conduct would be emancipation from criminal justice. I shall place my claim to your verdict upon no such dangerous foundation.” And, gentlemen, I, following at an immeasurable distance that great man, I, too, will place my claim to your verdict on no such dangerous foundation. “I must convince you,” said Lord Erskine, “not only that the unhappy prisoner was a lunatic within my own definition of lunacy, but that the act in question was the immediate unqualified offspring of this disease.” I accept this construction of the law; by that interpretation, coupled with and qualified by the conditions annexed to it, I will abide. I am bound to shew that the prisoner was acting under a delusion, and that the act sprung out of that delusion, and I will shew it. I will shew it by evidence irresistibly strong; and when I have done so, I shall be entitled to your verdict. On the other hand, my learned friend the Solicitor-General told you yesterday that in the case before you the prisoner had some rationality, because in the ordinary relations of life he had manifested ordinary sagacity, and that on this account you must come to the



conclusion that he was not insane on any point, and that the act with which he now stands charged was not the result of delusion. I had thought that the many occasions upon which this matter has been discussed would have rendered such a doctrine as obsolete and exploded in a court of law as it is everywhere else. Let my learned friend ask any of the medical gentlemen who surround him, and whose assistance he has on this occasion, if they will come forward and pledge their professional reputation, as well as their moral character, to the assertion that shall deny the proposition that a man may be a frenzied lunatic on one point, and yet on all others be capable of all the operations of the human mind, possessed of a high degree of sagacity, in possession of full rational powers, undisturbed by evil or excessive passions. On this point Dr. Ray,\* in the following observations, (the result of his long experience,) disposes of the very objection which my learned friend has put forward on the present occasion:—"That the insane mind is not entirely deprived of the power of moral discernment, but on many subjects is perfectly rational, and displays the exercise of a sound and well-balanced mind, is one of those facts now so well established, that to question it would only betray the height of ignorance and presumption. The first result, therefore, to which the doctrine leads, is that no man can ever successfully plead insanity in defence of crime, because it can be said of no one, who would have occasion for such a defence, that he was unable in any case to distinguish right from wrong. To shew the full merits of the question, however, it is necessary to examine more particularly how far the moral sentiment is affected by, and what relation it bears to insanity. By that partial possession of the reasoning powers which has been spoken of as being enjoyed by maniacs generally, is meant to be implied the undiminished power of the mind to contemplate some objects or ideas in their customary relations, among which are those pertaining to their right or wrong, their good or evil tendency; and it must comprise the whole of these relations, else the individual is not sane on these points. A person may regard his child with the feelings natural to the paternal bosom, at the very moment he believes himself commanded by a voice from heaven to sacrifice his child in order to secure his eternal happiness, than which, of course, he could not accomplish a greater good. The conviction of a maniac's soundness on certain subjects is based, in part, on the moral aspect in which he views those subjects; for it would be folly to consider a person rational in reference to his parents and children, while he labours under an idea that it would be doing God's service to kill them; though he may talk rationally of their characters, dispositions, and habits of life, their chances of success in their occupations, their past circumstances, and of the feelings of affection which he has always cherished towards them. Before, therefore, an individual can be accounted sane on a particular subject, it must appear that he regards it correctly in all its relations to right and wrong. The slightest acquaintance with the insane will convince any one of the truth of this position. In no school of logic, in no assembly of the just, can we listen to closer and shrewder argumentation, to warmer exhortations to duty, to more glowing descriptions of the beauty of virtue, or more indignant denunciations of evil doing, than in the hospitals and asylums for the insane. And yet many of these very people may make no secret of entertaining notions utterly subversive of all moral propriety, and perhaps are only waiting a favourable opportunity to execute some project of wild and cruel violence. The purest minds cannot express greater horror and loath-

\* Ray's Med. Jurisp., sec. 17, p. 32.



ing of various crimes than madmen often do, and from precisely the same causes. Their abstract conceptions of crime, not being perverted by the influence of disease, present its hideous outlines as strongly defined as they ever were in the healthiest condition; and the disapprobation they express at the sight arises from sincere and honest convictions. The *particular* criminal act, however, becomes divorced in their minds from its relations to crime in the *abstract*; and being regarded only in connexion with some favourite object which it may help to obtain, and which they see no reason to refrain from pursuing, is viewed, in fact, as of a highly laudable and meritorious nature. Herein, then, consists their insanity, not in preferring vice to virtue, in applauding crime and ridiculing justice, but in being unable to discern the essential identity of nature between a particular crime and all other crimes, whereby they are led to approve what, in general terms, they have already condemned. It is a fact not calculated to increase our faith in the march of intellect, that the very trait peculiarly characteristic of insanity has been seized upon as conclusive proof of sanity in doubtful cases; and thus the infirmity that entitles one to protection, is tortured into a good and sufficient reason for completing his ruin." I trust, gentlemen, that these observations, proceeding from a man of the most scientific observation, having all the facilities of studying everything connected with the subject, will not be lost upon you. I could mention case after case—I could continue till the sun should go down on my uncompleted task—I could cite case after case, in which the intellectual faculty was so impaired, that the insanity upon one point was beyond all doubt, and yet where there was upon all others the utmost sagacity and intelligence. You will see that all the evidence of my learned friend the Solicitor-General relates to the ordinary relations of a man's life. That does not affect the real question. It may be that this man understood the nature of right and wrong on general subjects—it may be that he was competent to manage his own affairs, that he could fulfil his part in the different relations of life, that he was capable of transacting all ordinary business. I grant it. But admitting all this, it does not follow that he was not subject to delusion, and insane. If I had represented this as the case of a man altogether subject to a total frenzy—that all traces of human reason were obliterated and gone—that his life was one perpetual series of paroxysms of rage and fury, my learned friend might well have met me with the evidence he has produced upon the present occasion; but when I put my case upon the other ground, that of partial delusion, my learned friend has been adducing evidence which is altogether beside the question. I can shew you instances in which a man was, on some particular point, to all intents and purposes mad—where reason had lost its empire—where the moral sense was effaced and gone—where all control, all self-dominion, was lost for ever under one particular delusion; and yet where in all the moral and social relations of life there was, in all other respects, no neglect—no irrationality—where the man might have gone through life without his infirmity being known to any except those to whom a knowledge of the particular delusion had been communicated. Before I read the two or three cases which I shall select from the mass, I may as well advert to another topic urged by my learned friend the Solicitor-General, which, in truth, is only another branch of the same objection. My learned friend has remarked upon the silent design and contrivance which the prisoner manifested upon the occasion in question, as well as upon his rationality in the ordinary transactions of life. But my friend forgets that it is an established fact in the history of this disease, perhaps one of its most striking phenomena, that a man may be mad, may be under the influence of a wild and



insane delusion,—one who, all barriers of self-control being broken down, is driven by frenzied impulse into crime,—and yet, in carrying out the fell purposes which a diseased mind has suggested, may shew all the skill, subtlety, and cunning, which the most intelligent and sane would have exhibited. Just so in the case of Hadfield : it was urged against Lord Erskine, that Hadfield could not be mad, because he had shewn so much cunning, subtlety, deliberation, and design, in the whole of the circumstances which led to the perpetration of the act with which he was charged. In the present case, my learned friend the Solicitor-General has told you, that the prisoner watched for his victim, haunted the neighbourhood of the Government offices, waited for the moment to strike the blow, and throughout exhibited a degree of design and deliberation inconsistent with insanity. The same in Hadfield's case: Hadfield went to the theatre, got his pistol loaded, and took his position in a place to command the situation in which he knew the King would sit; he raised the pistol, he took deliberate aim, and fired at the person of the King. All these circumstances were urged as evidence of design, and as inconsistent with the acts of a madman. But what said Lord Erskine in answer? That learned person said, "It has been stated by the Attorney-General and established by evidence which I am in no condition to contradict, nor have, indeed, any interest in contradicting, that when the prisoner bought the pistol which he discharged at or towards his Majesty, he was well acquainted with the nature and use of it; that as a soldier he could not but know that in his hands it was a sure instrument of death; that when he bought the gunpowder he knew it would prepare the pistol for its use; that when he went to the playhouse he knew he was going there, and everything connected with the scene, as perfectly as any other person. I freely admit all this; I admit also that every person who listened to his conversation, and observed his deportment upon his apprehension, must have given precisely the evidence delivered by his Royal Highness the Duke of York; and that nothing like insanity appeared to those who examined him. But what then? I conceive, gentlemen, that I am more in the habit of examination than either that illustrious person or the witnesses from whom you have heard this account; yet I well remember (indeed I never can forget it), that since the noble and learned judge has presided in this court, I examined for the greater part of a day in this very place an unfortunate gentleman who had indicted a most affectionate brother, together with the keeper of a madhouse at Hoxton, for having imprisoned him as a lunatic, whilst, according to his evidence, he was in his perfect senses. I was, unfortunately, not instructed in what his lunacy consisted, although my instructions left me no doubt of the fact; but, not having the clue, he completely foiled me in every attempt to expose his infirmity. You may believe that I left no means unemployed which long experience dictated, but without the smallest effect. The day was wasted, and the prosecutor, by the most affecting history of unmerited suffering, appeared to the judge and jury, and to a humane English audience, as the victim of the most wanton and barbarous oppression; at last, Dr. Sims came into court, who had been prevented by business from an earlier attendance, and whose name, by the bye, I observe to-day in the list of the witnesses for the Crown. From Dr. Sims I soon learned that the very man whom I had been above an hour examining, and with every possible effort which counsel are so much in the habit of exerting, believed himself to be the Lord and Saviour of mankind, not merely at the time of his confinement, which was alone necessary for my defence,



but during the whole time that he had been triumphing over every attempt to surprise him in the concealment of his disease. I then affected to lament the indecency of my ignorant examination, when he expressed his forgiveness, and said, with the utmost gravity and emphasis, in the face of the whole court, 'I am the Christ!' and so the cause ended." But to proceed: "Again," continues Lord Erskine, "this is not the only instance of the power of concealing the malady; I should consume the day if I were to enumerate them; but there is one so extremely remarkable that I cannot help stating it. Being engaged to attend the assizes at Chester upon a question of lunacy, and having been told that there had been a memorable case tried before Lord Mansfield in this place, I was anxious to procure a report of it; and from that great man himself (who within these walls will ever be revered,) being then retired in his extreme old age to his seat near London, in my own neighbourhood, I obtained the following account of it:—"A man of the name of Wood," said Lord Mansfield, "indicted Dr. Monro for keeping him as a prisoner (I believe in the same madhouse at Hoxton) when he was sane. He underwent the most severe cross-examination by the defendant's counsel without exposing his complaint, but Dr. Battye having come upon the bench by me, and having desired me to ask him what was become of the princess whom he had corresponded with in cherry-juice, he shewed in a moment what he was. He answered that there was nothing at all in that, because, having been (as everybody knew) imprisoned in a high tower, and being debarred the use of ink, he had no other means of correspondence but by writing his letters in cherry-juice, and throwing them into the river which surrounded the tower, where the princess received them in a boat. There existed, of course, no tower, no imprisonment, no writing in cherry-juice, no river, no boat, but the whole the inveterate phantom of morbid imagination. I immediately," continued Lord Mansfield, "directed Dr. Monro to be acquitted. But this man Wood, being a merchant in Philpot-lane, and having been carried through the city on his way to the madhouse, he indicted Dr. Monro over again for the trespass and imprisonment in London, knowing that he had lost his cause by speaking of the princess at Westminster; and such," said Lord Mansfield, "is the extraordinary subtlety and cunning of madmen, that when he was cross-examined at the trial in London, as he had successfully been before, in order to expose his madness, all the ingenuity of the bar and all the authority of the Court could not make him say a single syllable upon that topic which had put an end to the indictment before, although he had the same indelible impression upon his mind, as he signified to those who were near him; but, conscious that the delusion had occasioned his defeat at Westminster, he obstinately persisted in holding it back." My learned friend at my right (Mr. Monteith) has brought to my notice another case, which I will read, because it is worthy attentive consideration, inasmuch as it shews another instance of the deception a madman is capable of practising. It is an instance of deception practised upon one of the most sagacious men the law ever produced—I mean, the late Lord Eldon. In the case of "*Ex parte Holyland*," 11 Vesey, p. 10, Lord Eldon says, "In another case I succeeded in getting Lord Thurlow, after a very long conversation with the party, to supersede the commission (of lunacy), and was satisfied from many conferences with him that he was perfectly rational; but immediately after the petition was heard, coming to thank me for my exertions, he in five minutes convinced me that the worst thing I could



have done for him was to get rid of the commission." Here, then, gentlemen, you have the fact of the highly intelligent and sagacious mind of Lord Eldon having been imposed upon by an individual who was an admitted lunatic. But with regard to the question of subtlety, design, and contrivance, existing in an insane person prior to the commission of the fatal act, give me leave once more to refer you to the work of Dr. Ray. He says, "Another trait, which has been greatly relied on as a criterion in doubtful cases, is the design or contrivance that has been manifested in the commission of the criminal act. That it ever should have been viewed in this light is an additional proof, if more were wanted, of the deplorable ignorance that characterizes the jurisprudence of insanity; for the slightest practical acquaintance with the disease would have prevented this pernicious mistake. The source of this error is probably to be found in the fact 'that among the vulgar, some are for reckoning madmen those only who are frantic or violent to some degree,' the violence being supposed to preclude every attempt at design or plan of operations. In the trial of Bellingham, the Attorney-General declared, that 'if even insanity in all his other acts had been manifest, yet the *systematic correctness* with which the prisoner contrived the murder, shewed that he possessed a mind at the time capable of distinguishing right from wrong.'" This, recollect, gentlemen, is the view with which alone my learned friend the Solicitor-General brings before you evidence of design on the present occasion. But Dr. Ray\* proceeds—"In Arnold's case, great stress was laid on the circumstance of his having purchased shot of a much larger size than he usually did when he went out to shoot, with the design then formed of committing the murder he afterwards attempted. Mr. Russell recognises the correctness of the principle, and lays it down as part of the law of the land. If, however, the power of design is really not incompatible with the existence of insanity, this pretended test must be as fallacious as that already adverted to." No one will deny that proposition. If the test be not a true one, nothing can be more dangerous to the purposes of justice than to allow it to be imported into your consideration. But, Dr. Ray goes on to observe—"What must be thought of the attainments of those learned authorities in the study of madness, who see in the power of systematic design a disproof of the existence of insanity; when, from the humblest menial in the service of a lunatic asylum, they might have heard of the ingenuity of contrivance and adroitness of execution that pre-eminently characterize the plans of the insane? If the mind continues rational on some subjects, it is no more than might be expected that this rationality should embrace the power of design, since a person could not properly be called rational on any point in regard to which he had lost his customary ability to form his plans and designs for the future. These views are abundantly confirmed by every day's observation. The sentiment of cunning, too, which is necessary to the successful execution of one's projects, holds but a low place in the seat of the mental faculties—being a merely animal instinct—and is oftentimes observed to be rendered more active by insanity, so as to require the utmost vigilance to detect and defeat its wiles. One who is not practically acquainted with the habits of the insane, can scarcely conceive the cunning which they will practise when bent on accomplishing a favourite object. Indeed, it may be said, without greatly distorting the truth, that the combined cunning of two maniacs bent on accomplishing a certain

\* Ray's Med. Jurisp., p. 28, sec. 21.



object, is always a match for the sagacity of any sound individual. Those, for instance, whose madness takes a suicidal direction, are known to employ wonderful address in procuring and concealing the means of self-destruction; pretending to have seen the folly of their designs, and to have renounced them entirely, sending away their keepers, after thus lulling them into security, and, when least expected, renewing their suicidal attempts. When desirous of leaving their confinement, also, the consummate tact with which they will set suspicion at rest, the forecast with which they make their preparations for escape, and the sagacity with which they choose the time and place of action, would do infinite credit to the conceptions of the most sound and intelligent minds." Dr. Haslam has related a case so strikingly illustrative of this trait, and which is well deserving of attention. "An Essex farmer," he says, "after having so well counterfeited recovery as to produce his liberation, and being sent back again, immediately became tranquil, and remonstrated on the injustice of his confinement. Having once deceived me, he wished much that my opinion should be taken respecting the state of his intellects, and assured his friends that he would submit to my determination. I had taken care to be well prepared for this interview, by obtaining an accurate account of the manner in which he had conducted himself. At this examination he managed himself with admirable address. He spoke of the treatment he had received from the persons under whose care he was then placed, as most kind and fatherly; he also expressed himself as particularly fortunate in being under my care, and bestowed many handsome compliments on my skill in treating this disorder, and expatiated on my sagacity in perceiving the slightest tinges of insanity. When I wished him to explain certain parts of his conduct, and particularly some extravagant opinions respecting certain persons and circumstances, he disclaimed all knowledge of such circumstances, and felt himself hurt that my mind should have been poisoned so much to his prejudice. He displayed equal subtlety on three other occasions when I visited him, although by protracting the conversation he let fall sufficient to satisfy my mind that he was a madman. In a short time he was removed to the hospital, where he expressed great satisfaction in being under my inspection. The private madhouse which he had formerly so much commended now became the subject of severe animadversion. He said that he had there been treated with extreme cruelty—that he had been nearly starved, and eaten up by vermin of various descriptions. On inquiring of some convalescent patients, I found (as I had suspected) that I was as much the subject of abuse when absent as any of his supposed enemies, although to my face he was courteous and respectful. More than a month had elapsed since his admission into the hospital before he pressed me for my opinion, probably confiding in his address, and hoping to deceive me. At length, he appealed to my decision, and urged the correctness of his conduct during confinement as an argument for his liberation. But when I informed him of circumstances he supposed me unacquainted with, and assured him that he was a proper subject for the asylum which he then inhabited, he suddenly poured forth a torrent of abuse; talked in the most incoherent manner; insisted on the truth of what he formerly denied; breathed vengeance against his family and friends, and became so outrageous that it was necessary to order him to be strictly confined. He continued in a state of unceasing fury for more than fifteen months." But as Dr. Ray very truly observes, "the purely intellectual power of combining a series of acts that shall accomplish or eventuate in certain results when pro-



properly carried into execution, seems to be not only less frequently involved in the mental derangement, but often to have received a preternatural degree of strength and activity. Pinel speaks of a maniac who endeavoured to discover the perpetual motion, and in the course of his attempts constructed some very curious machines. The plans which the brain of a maniac who imagines himself a monarch is perpetually hatching for the management of his kingdom, will bear to be compared with the political schemes of some rulers, who are supposed to have the advantage of sanity on their side.\* Gentlemen, I might quote many other cases to you, as striking perhaps as those to which I have already called your attention. These are, I think, sufficient. The observations which I have cited to you are the results of scientific inquiries—they rest for their basis upon experience; they are the observations of men who have no interests to advocate, who are likely to take no partial view, or to be operated upon by any bias. They have held the calm light of science over this intricate question; and they have come to results which I have taken the liberty of laying before you, acting on the belief that they will afford you the best aid to guide you in this inquiry. What then, gentlemen, is the result of these observations? What is the practical conclusion of these investigations of modern science upon the subject of insanity? It is simply this—that a man, though his mind may be sane upon other points, may, by the effect of mental disease, be rendered wholly incompetent to see some one or more of the relations of subsisting things around him in their true light, and though possessed of moral perception and control in general, may become the creature and the victim of some impulse so irresistibly strong as to annihilate all possibility of self dominion or resistance in the particular instance; and this being so, it follows, that if, under such an impulse, a man commits an act which the law denounces and visits with punishment, he cannot be made subject to such punishment, because he is not under the restraint of those motives which could alone create human responsibility. If, then, you shall find in this case that the moral sense was impaired, that this act was the result of a morbid delusion, and necessarily connects itself with that delusion; if I can establish such a case by evidence, so as to bring myself within the interpretation which the highest authorities have said is the true principle of law as they have laid it down for the guidance of courts of law and juries in inquiries of this kind, I shall feel perfectly confident that your verdict must be in favour of the prisoner at the bar. With these observations I shall now proceed to lay before you the facts of this extraordinary case. My learned friend the Solicitor-General has already given you some account of the prisoner at the bar, and I will now fill up the outline which my learned friend has drawn. The prisoner, as you have been told, is a native of Glasgow. At an early age he was apprenticed to his father, who carried on the business of a turner in that city; at the end of the apprenticeship he became a journeyman to his father, having been disappointed in not being taken by him as a partner. The prisoner, I should observe, is a natural son, and probably did not meet with that full measure of kindness which is usually shewn to legitimate offspring. At length he set up in business for himself; and from the commencement it would appear, as truly stated by the witnesses for the prosecution, that he was a humane man, of singularly calm and mild temper, who never gave offence to any one—a man, in short, who never in any relation of life did anything to bring discredit upon himself. Whatever might have been the predetermining cause, whether it was the result of circumstances, or owing to a natural defect of

\* Haslam's Observations on Madness, p. 53.



constitution, he appears to have been from the commencement a man of gloomy, reserved, and unsocial habits. He was, moreover, as you will hear, though gloomy and reserved in himself, a man of singularly sensitive mind—one who spent his days in incessant labour and toil, and at night gave himself up to the study of difficult and abstruse matters; but whose mind, notwithstanding, was tinctured with refinement. As one trait of his character, I would mention, that he was extremely fond of watching children at play, and took infinite delight in their infantine and innocent ways. I will prove, also, that he was a man of particular humanity towards the brute creation, and that when he went out he was in the habit of carrying crumbs in his pocket, to distribute to the birds. If in the course of their walks his companions discovered a bird's nest, he would interfere, and not allow them to approach it. These things are striking indications of character, and certainly do not accord with the ferocity of an assassin. In 1834, or about that time, the prisoner was attacked with typhus fever. He afterwards worked at the shop situate in the street mentioned yesterday, and, subsequently, went to lodge in a house in Stockwell-street, in company with a man of the name of Gilchrist, who will be called as a witness, and who will describe what the prisoner was at that time. Even then it will appear that the indications of that restlessness of mind which has brought him to the unhappy condition in which he now is, began to shew themselves. I do not allude to the circumstances of these early years as any proof of insanity, but I mention them only to shew the tendency of the prisoner's mental organization, because these premonitory symptoms will explain the state of his mind at a subsequent period. At this time, it will be proved, he began to be restless and sleepless at night; he frequently disturbed his fellow-lodger by getting up in the night time and pacing up and down the apartment which they occupied. Afterwards, [in the year 1837, he went to lodge in the house of a man named Hughes, whom I shall also call before the court. Hughes will tell you that at that time the prisoner so disturbed his fellow-lodger by his sleeplessness at night, that on two or three occasions he (the lodger) was obliged to get out of bed and sleep upon the carpet of the floor rather than be subjected to the restlessness of the prisoner; he shortly afterwards left that place of residence rather than be thus disturbed. You will be told that the prisoner was occupied from early in the morning until late at night at incessant toil, and that whenever he came home, either to breakfast, dinner, or supper, he first cut his food with a knife, and then proceeded, while eating it with one hand, to read some book which he held in the other. This was his invariable course at all his meals; the man was continually following some study, always upon some very grave, involved, or abstruse subject. When he came home from work at night, about ten o'clock, instead of retiring to rest, he again directed his attention to his books, and thus would he remain till the other inmates of the house had gone to rest; and even when, at a very late hour of the night, he did retire to rest, it was not rest for him, for that sweet sleep which is the birthright and inheritance of the labouring man—the reward of the poorer and humbler portion of the community—the blessing which nature gives them to counterbalance the disadvantages of their condition—was a privilege which to the unhappy prisoner at the bar was denied; for night after night, it would seem, the same restlessness took place, the same perturbed slumbers were his lot. It is an admitted fact, I believe, that the recumbent position which rest requires, is unfavourable to mental diseases, and an aggravating cause of all the symptoms of insanity. I mention these things to shew that, from the



earliest period, the prisoner had a predisposition to insanity. I shall prove to you, gentlemen, that the man and his wife with whom he lodged in 1837, became so alarmed at his behaviour that they gave him notice to quit, and forced him to leave, despite his wish to remain, from an apprehension that all was not right within his mind. So much for that period. I shall next carry him on to the time when he relinquished his business. When he quitted his lodgings in 1837, he went to live in his own workshop, which he fitted up with a grate to cook his victuals; and there he lived alone, without friend or associate, without recreation or amusement, save that which was found in turning from severe toil to severer studies. He then began to believe that persons persecuted him; he then began to act more strangely than before; he then was in the habit of sending messengers to his debtors for any money they owed him, with an injunction that they should not come away without it. That was not extraordinary, it might be said; true, but add to it this, that the reason he gave was that those persons, and all the world beside, had conspired against him to persecute him, as he said, and to ruin him. With these moral phenomena must be coupled certain physical accompaniments. The unhappy prisoner would complain of pain; he would sit for hours, ay, even for days, holding his head within his hands, and uttering ejaculations descriptive of the tortures he endured; he would rush out of his workshop and bathe his burning brow in the waters of the Clyde. Often has he been known to hasten out, under the influence of these agonies, and throw himself into the waters of the Clyde in order to seek some relief from the torturing fever by which his brain was consumed. These facts I shall prove to the court and jury. They do not amount to insanity, but they will shew what was going on within. They will show his predisposition to the disease which has since assumed so terrible a shape. It appears that in the beginning of 1841 he proposed that a man named Carlow should take his business, but the man hesitated and declined. But the prisoner would not remain, although the whole tendency of his mind appears to have been a desire to accumulate money by industrious and penurious habits. He gave up his business, from which he was deriving considerable gain. Why? Doubtless because at that time the fearful phantasms of his own imagination rendered his existence miserable. He was wretched, because he was constantly harassed by the terrible images his disordered mind conjured up. These terrifying delusions had become associated with the place of his abode, haunting him at all hours of the day and night. You will hear from one of the witnesses, to whom he explained himself, that he gave up business "on account of the persecution by which he was pursued." Yet it appears that all this time his business was prosperous and thriving, and, in addition, the great tendency of his mind seemed still to be a desire to earn money and to save it. That these phantasms long existed in that man's mind there is no doubt, before he at length sought relief by flight from this hideous nightmare, which everlastingly tortured his distracted senses. No doubt these delusions existed in his mind before, but it was not until he left his business that they were revealed to others in anything like a definite shape. And, gentlemen, you will learn from the medical authorities that it was natural for him, who became at last borne down by these delusions, to struggle against them as long as he could; to resist their influence, and to conceal their existence; until, at last, the mind, overwrought and overturned, could contain itself no longer, and was obliged to give form, and shape, and expression, "a local habitation and a name," to the fantasies against which it had struggled at first, believing, it may



be, for a time, that they were but delusions, until their influence gradually prevailing above the declining judgment, they at last assumed all the appearance of reality, and the man became as firmly persuaded of the substantiality of these creations of his own fevered brain as of his very existence. Therefore it is that, coupling all the communications subsequently made respecting this man, with the fact of his giving up his business under circumstances in which every inclination of his mind would have led him to continue it—I can understand that those delusions had been for a long time existing in his mind; first, in an indefinite and shadowy form, then assuming a vague outline, and afterwards growing and increasing until they became stamped with the character of reality; and I believe, gentlemen, that when all the facts are before you, you will have no hesitation in coming to the conclusion that such was the case. But to proceed with this painful history—in the year 1841 the prisoner had disposed of his business under the circumstances which have been mentioned, and then went to live at the house of a Mrs. Patterson. She will be called in evidence, and will give you a history of the prisoner from his infancy; she will concur with the other witnesses in telling you that a more mild and inoffensive man than he has shewn himself during the greater part of his life does not exist. From this witness you will also learn the nature of the delusions under which the prisoner laboured, and to which I have already referred: she will tell you that shortly after he had taken lodgings with her, he left without notice or warning, and was absent a considerable time; and it will be seen that during that absence he believed himself to be the object and victim of the most unrelenting persecution, that he imagined himself to be surrounded by persons who were attempting to injure him, and who had framed a conspiracy against his comforts, his character, and even his life, and that wheresoever he went these persons still pursued him and gave him no rest either by night or by day.. Wherever he was, these creatures of his imagination still haunted him with eager enmity, for the purpose of destroying his happiness and his life. Nothing, then, could be more natural than that a man under such a persuasion should attempt to escape from the persecution which he erringly imagined to exist, and to seek in some change of place and clime a refuge from the tortures he endured. Alas! alas! in this man's case the question put by the poet of old received a melancholy response,—

“———Patriæ quis exul  
Se quoque fugit?”

What exile from his country's shore can from himself escape?

When he left his own country he visited England, and then France; but nowhere was there a “resting-place for the sole of his foot.” Wherever he went, his diseased mind carried with him the diseased productions of its own perverted nature. Wherever he was, there were his fancies; there were present to his mind his imaginary persecutors. When he planted his foot on the quay at Boulogne, there he found them. No sooner was he landed on a foreign soil, than there were his visionary enemies around him. Again he fled from them, and again returned to his native land. Feeling the impossibility of escape from his tormentors, what course did he pursue? When he found it was impossible to go anywhere by night or by day to effect his escape from those beings which his disordered imagination kept hovering around him, what does he? What was the best test of the reality of the delusion? That he should act exactly as a sane man would have done, if they had been realities instead of delusions. And there is my answer to the fallacious test of my learned friend the Solicitor-General. He did



so act; he acted as a sane man would have done, but he manifested beyond all doubt the continued existence of the delusions. He goes to the authorities of his native place, to those who could afford him protection, and with clamours entreats and implores them to defend him from the conspiracy which he told them had been entered into against his happiness and his life. Are we to be told that a man acting under such delusions, on whose mind was fixed the impression of their existence, and who was goaded on by them into the commission of acts which but for them he never would have committed,—are we to be told that such a man is to be dealt with in the same way as one who had committed a crime under the influence of the views and motives which operate upon the minds and passions of men under ordinary circumstances? But to proceed: he went to his father and told him the tale of his persecutions. His father endeavoured to soothe him, to undeceive his mind, and to point out the fallaciousness of his notions. He implored his father to procure him employment: no doubt the absence of employment had rendered his suffering more acute. He wished his father to procure some mercantile situation for him. His father told him he did not consider him competent, and recommended him first to take instruction in book-keeping and accounts. He went away; but after a short time returned, and asked his father if he had done anything to stay these persecutions. His father inquired if he had followed his advice by obtaining such instruction as would qualify him for a mercantile situation. “It is idle,” said he; “it is idle for me to attempt to study or to think of employment. I cannot rest by day or night. I am persecuted by those who have entered into a conspiracy against my welfare and life. I ask for your protection. You are known to the authorities. I entreat you to get them to protect me.” His father inquires who are the persons persecuting him. He can give no definite account of his persecutors, only that wherever he went, they would follow him by night and day—go where he would, they would send their emissaries either before or after him. Again and again and again he made the same prayer, not only to his father, but to persons whose evidence will be most important. Mr. Wilson, an engraver of Glasgow, and also a commissioner of police, will prove that about eighteen months ago this man first came to him and complained of the persecution of which he was the victim. This tallies exactly with the date I have before referred to. He left his business in January, 1841; he then went to lodge with Mrs. Patterson, and afterwards went to England and also to France, for the purpose of getting rid of his persecutors. The period of his addressing himself to Mr. Wilson would therefore correspond with the time of his return to Glasgow. To Mr. Wilson he complained of the persecution of which he was the victim; and the nature of the complaints he then made is of importance—it shews completely the morbid character of the delusions which pervaded his mind; and it shews also, that all idea of his sanity at that time is quite out of the question. That these delusions afterwards took a political bias is possible; they may have done so. But such was not the first morbid impression of the prisoner’s mind. The first was, according to his own complaint to Mr. Wilson, that the Catholic priests and Jesuits were engaged in persecuting him, and he stated that the annoyance he had experienced from them was such that he had been obliged to leave the country, and had gone to France, but that on landing at Boulogne he found he was watched by them still, and therefore it was useless to go further. Mr. Wilson endeavoured to soothe him and to disabuse his mind, and he went away, apparently somewhat quieted. At the end of three



or four days he comes back and says that there are spies all around him, and that the church of Rome and the police and all the world are against him. Here you have in addition to the church of Rome, the "police" and "all the world." Mr. Wilson spoke to him of the folly of supposing the church of Rome to be against him, and assured him that if the police did anything against him, he, Mr. Wilson, would find it out. He comes again in the course of a few days, and then, in addition to his former complaints, he says, "The Tories are now persecuting me on account of a vote I gave at a former election." You will at once comprehend, gentlemen, that the delusion arose not from any part he had individually taken in politics—it was the form which was assumed by a diseased mind, believing itself to be the victim of persecution by anybody and everybody. First it was the "Catholic priests," then it was "the church of Rome, the police, and all the world," and then it was "the Tories." After that he called again upon Mr. Wilson, to know what had been done for him, when Mr. Wilson, to soothe him, told him that he had made inquiries; and promised to speak to Captain Miller, a superintendent of police. Upon that promise being given, he went away; and returned again, and upon Mr. Wilson telling him that he had been unable to see Captain Miller, the prisoner expressed great disappointment; and Mr. Wilson again promised to see Captain Miller. Again he called, and was told that Captain Miller said—there were no such persecutors, if there were, he should know of it. The prisoner said that Captain Miller was deceiving Mr. Wilson, as he knew that his persecutors were more active than ever; that they gave him no rest, day or night; that his health was suffering, and that the persecutions he endured would drive him into a consumption. Mark that statement, gentlemen; couple it with the declaration he made after he was apprehended, and it will enable you to judge of the state of the man's mind at the time he made that declaration. Again he goes away, and again returns; Mr. Wilson makes some excuse, and so dismisses him: he does not come back again for some months, when he returns to talk again of his persecutors. This was in the summer, and the time was drawing nigh to the period of this unhappy deed. Mr. Wilson will tell you, gentlemen, that when he saw him at that time, his conduct had become more strange, and his conversation more incoherent; doubtless as time progressed, his disorder was becoming worse. Having got rid of him, Mr. Wilson does that which affords the best test of the sincerity of the conviction he will express to you—namely, that he believed the man to be insane. He goes to the man's father, and represents to him what had passed, and tells him that, in his opinion, it was unfitting for his son any longer to be left at large. Gentlemen, there are other witnesses whose testimony will be equally conclusive as to the insanity of the prisoner. I will place in the witness-box Mr. Alexander Johnston, member of Parliament for the burghs near Glasgow, on whom the prisoner called, within the last twelve months, and told the same story concerning the persecution of the police, the Jesuits, and the Tories. This notion concerning the Tories was his last, and became his fixed and favourite hallucination. Mr. Johnston reasoned with him; but to reason with him was vain. A second time he sought Mr. Johnston's advice how to disentangle himself from his pursuers. Afterwards, Mr. Johnston left the neighbourhood, and went to London. He then wrote a long letter to Mr. Johnston, making the same complaint of persecution, and still seeking his counsel. Mr. Johnston has destroyed the letter, but he will state its contents. Amongst the letters



found at the prisoner's lodgings is that which Mr Johnston wrote in reply, and which, by the kindness of my learned friend, the Solicitor-General, can be laid before you, and it will shew you that Mr. Johnston entertained the same opinion of the state of the prisoner's mind as other persons, and that his conviction was that the man was decidedly mad. Gentlemen, I shall call before you Mr. Bell, the Sheriff-Substitute of Glasgow, an officer holding a situation of considerable importance in the administration of the law in Scotland, a member of the Scottish bar, and a gentleman of the highest integrity. I shall shew you that the prisoner at the bar applied to this gentleman in a state of great excitement, again asking for protection—repeating as usual the same story of the incessant persecution of his enemies, which would not allow him to devote himself to business—which embittered his life, and would allow him no rest either night or day. I shall call Sir James Campbell, the Lord Provost of the city of Glasgow, who will prove to you that he saw this man on the same subject. He will tell you that in the beginning of May last the prisoner called on him for advice, speaking of persons who so annoyed and persecuted him that he said he was afraid for his life—that he was afraid to remain in his own house, and that he had stayed in the fields all the previous night to escape from them. Sir James Campbell asked him who these persons were, but could not obtain any definite or satisfactory account. He gave an indirect answer, to the effect that there were many of them, and that he could not get rid of them. The witness then told him that he was afraid he was labouring under some delusion of the mind: that was the impression at once produced on Sir James Campbell. He inquired from the prisoner whether he ever had been treated for any such malady, and asked him who his friends were, telling him at the same time to go and consult them and especially a medical man. Sir James will tell you that it was the decided conviction of his mind at the time that the prisoner was labouring under some delusion that had disordered his mind; and the best proof, indeed, that that distinguished magistrate did entertain such a conviction at the time is, that he took the trouble to send to the prisoner's father to come and call upon him, in order that he might converse with him upon his son's state of mind. Unfortunately, the father did not call upon Sir James Campbell until after the fatal event, which we must all so much deplore, whatever may be the result of this trial, had occurred; so that an interview which might have prevented the ultimate mischief did not take place. I shall further call before you a gentleman of the name of Turner, a member of the clerical profession, the minister of Gorbals, near Glasgow, close to where the prisoner resided. I shall shew you that six or eight months ago this man came to Mr. Turner and introduced himself to him as the son of an old member of his congregation. At first he was perfectly tranquil; as long as the fatal topic was not touched upon, his manner was calm and collected as was his wont. But Mr. Turner will tell you, that when he began upon the fatal subject which formed the main feature of their conversation, his manner became excited and wild, his gesticulation violent, drops of sweat stood upon his brow, denoting the conflict and agony that was going on within. Mr. Turner will tell you the conversation that took place—that the prisoner told him he was the object of a bitter conspiracy of a political party in that city who were plotting his ruin—that he had endeavoured in every possible way to escape from them, but in vain. He will tell you that the prisoner spoke of having recourse to the authority of the Lord Provost, and that the object of his



visit to Mr. Turner was to induce that gentleman to intercede with his (the prisoner's) father on his behalf, in order that the persecution he suffered under might be averted. He said, also, that he had given a vote at an election, which was the cause of all this persecution. The witness did not ask him any further questions, as he saw he was deranged. But Mr. Turner will inform you, that he, like Mr. Miller, the commissioner of police, did more. He felt it a duty he owed both to father and son, as the minister of the congregation, to go to the father, which he did, telling him his opinion that his son was insane, and that he ought to be looked to. Would to God that advice had been listened to! Would to God that warning voice had produced the effect which was intended! Then this melancholy catastrophe might have been prevented! By judicious medical treatment, the man might have been restored to reason; or at all events, such means might have been resorted to as the law allows for the protection of society. Oh, then, what different results would have been produced! The unhappy prisoner might have been spared the horror of having imbrued his hand in the blood of a fellow-creature—he would have been spared the having to stand to-day at that bar on his trial for having committed the worst crime of which human nature is capable: as it now is, his only trust must be in your good sense, judgment, and humanity,—in the opinion which you may form upon the evidence which those who come from a distant part to throw a light on the subject will give you, and in such aid as my humble capacity enables me to afford him. So much, gentlemen, for the evidence I shall give with respect to the origin of this wretched assassination. My learned friend has called evidence which throws some little doubt on the state of the prisoner's mind during the two or three months that intervened between September and the period I have just been referring to. It certainly, however, does not in the slightest degree negative the case of insanity, which my witnesses will clearly establish. Mrs. Dutton, the woman with whom he lodged during the time he was in London, has given you only that sort of negative testimony which can only spring either from the absence of all opportunity of observation or from want of attention to the matter in question. Every account she gives of his mode of life shews that she had no opportunity of forming a judgment: He went out, it seems, every morning at eight, he took no meals in the house, and returned only at night, after absence during the entire day, when he lit his candle and went to bed. She never was brought into contact with him, nor ever entered into conversation with him, except in some casual observations about the Queen's visit to Scotland. Thus she never had any opportunity of judging of the state of his mind; and I leave it to you to say whether the evidence of a witness so situated and so qualified is for one moment to be put in comparison with the testimony which I shall adduce of persons who had ample opportunities of observing his early habits—his sullen moods of mind—his reserved manner—his taciturnity—his avoidance of all conversation and society—circumstances all singularly corresponding with the symptoms of that peculiar state and frame of mind which there can be no doubt existed in this case, and which the highest authorities go to shew is a striking indication of insanity. The evidence of Mrs. Dutton, therefore, does not touch the case at all. It is clear, however, from her statement, that in the months of November and December he was attacked with illness. How far that illness may have contributed to work him up to the last impulse of his delusion—to the last paroxysm of his insanity, might be a matter worthy of consideration, though I will not now stop further to discuss it. But with regard to Mrs. Dutton, all the occasions which she had of ascertaining the state of the prisoner's mind, were



once when he sent her for some coffee to a neighbouring coffee-shop, instead of going there himself, because he was ill; and, on another occasion, when he came in with some barley, and asked her to pour hot water on it, in order that he might drink it when so heated and prepared. Now, my learned friend must have been most strangely misinstructed on this subject; for the impression produced by his statement was, that in consequence of that illness and of her attendance on him as a sick person is usually attended on, this woman had had opportunities of forming a judgment as to his state of mind, whereas it turns out that she never had any but the two opportunities I have mentioned of observing him at all, because when he came home every night, he retired to rest, without entering into conversation, and took no meals at home, so that her attention was never in the slightest degree drawn to him. I now come, gentlemen, to the act itself, with which the prisoner stands charged. The Solicitor-General has said that you are not, from the nature of the act itself, to draw an inference as to the state of mind of the person committing it. My learned friend put the proposition rather vaguely, but I can scarcely suppose that he meant what I have just said to the full extent of the terms. He might have meant either that you were not necessarily to infer from the nature of the act, from its atrocity and the absence of all probable impelling motives, the insanity of the person committing it—that is to say, that you were not to infer it conclusively from those circumstances alone—or he might have meant that the nature of the act itself ought not at all to be an ingredient in forming a judgment of the state of the party committing it. Now, if my learned friend could have meant this last proposition, I must say, that with all my respect for him, I should be compelled boldly to differ from him, and to dissent altogether from a proposition so monstrous as that would seem to be. If it be found that an act is done for which he who committed it was without any of those motives which usually actuate men in a state of sanity to wickedness and crime—if the whole circumstances connected with the perpetration of that act tend to shew that it was one wholly inconsistent with the relation towards the surrounding world of the party committing it, am I, in such a case, to be told that I am to draw no inference at all from the nature of the act itself? I am sure, gentlemen, you will not allow your minds to be influenced and misled by any such proposition. You must look to the act, not conclusively, indeed, but in connexion with the other leading circumstances of the case. What is the act? In the broad face of day—in the presence of surrounding numbers—in one of the great and busy thoroughfares of this peopled metropolis—with the certainty of detection, and the impossibility of flight—with the inevitable certainty of the terrible punishment awarded to such a deed—a man takes away the life from one who (in any view of the case) had never, in thought, word, or deed, done to the perpetrator of that act the faintest vestige of an injury—from one who, as my learned friend yesterday described him, was of so mild a nature that he would not injure any being that had life—does this in the total absence of all motive, with the certainty of inevitable detection, and of equally inevitable punishment;—yet you are told by my learned friend that you are not to let the nature and the circumstances of such an act enter into your judgment as to whether the person so committing it was sane or not! Who is there who not having his judgment overclouded by the indignation which the very mention of such a deed is calculated to excite, could bring for a single moment his dispassionate reason to bear upon the nature of the case,



—whose mind would not suggest that the act must be that of a frenzied lunatic, and not of one possessed of his senses? My learned friend says that, nevertheless, you are not to look to the question of motive, and he appeals to history for instances where fanaticism and enthusiasm have operated on ill-regulated minds to induce them to commit similar crimes. I might possibly object that these instances are not strictly in evidence before you, but I will not adopt such a course. I admit, that in order to understand the nature of insanity aright, we must look beyond the evidence in the particular case. I will travel, therefore, with my learned friend beyond the facts now before you, and will turn to history in order to aid our judgment. I concede to him that fanaticism and enthusiasm operating on ill-regulated minds have produced similar disastrous results on former occasions. But look at the mode in which those motives operated on the minds of the criminals. The religious fanatic sharpened his steel against his sovereign's life, because he was told by a fanatical priesthood that he was doing a service to God and to religion—that he was devoting himself by that act to the maintenance of God's religion, and that while incurring an earthly martyrdom, he was also ensuring to himself an everlasting reward. Again, I admit that political enthusiasm has urged on others to similar crimes. Why? Because they acted under the belief that in some great emergency, while they were sacrificing the moral law, they were ensuring the welfare of their country. They were impelled by fanaticism in another form, by political enthusiasm, by misdirected and ill-guided notions of patriotism. Political enthusiasm! Where in this case is there a single trace of the existence of such a sentiment in the mind of the assassin? Where has the evidence for the prosecution furnished you with a single instance of political extravagance on the part of this man? Is he shewn to have taken a strong and active part in political matters? Did he attend political meetings? Is he shewn to have been a man of ill-guided, strong, and enthusiastic political sentiments? There is not a tittle of evidence on that subject. Many among us entertain strong political opinions. I do not disclaim them myself. I entertain them, and most strongly too; but if I believed that they would make me love, cherish, esteem, or honour any human being the less on account of his holding different opinions, I would renounce politics for ever, for I would rather live under the most despotical and slavish government than forego aught of those feelings of humanity which are the charm of human life, and without which this world would be a wilderness. Therefore, I say that my learned friend hastened too rapidly to the conclusion he has come to, when he says that the prisoner has committed murder under the influence of political enthusiasm. My learned friend has not adduced a single exaggerated expression of a political nature on the part of the prisoner? It was for him to make out a case of political enthusiasm. He has not only failed in so doing; he has not even attempted to take on himself the burden of proving its existence. On the contrary, it appears that this man, being a man of thinking mind (perhaps too much so), though he would occasionally speak on politics as on other grave matters, was of very moderate political opinions;—that so far from being a man likely to abet violence on the score of political opinion, he denounced in the strongest terms the extravagant views and opinions of the chartist and radical leaders. And when you tell me, in answer to the remark that there was no visible motive in the prisoner for shooting Mr. Drummond, that he was mistaken in his victim, and that his blow was intended for Sir Robert Peel, I will prove to you that so far from his entertaining any animosity towards that distinguished statesman,



he has been heard to speak of him in terms of respect—with a warm panegyric of his talents, he having heard him speak once when admitted to the gallery of the House of Commons, and that he has declared his opinion that Sir Robert Peel was or would live to become a very great man. Sir Robert Peel! Why should he be the victim of this man's political enthusiasm? an enthusiasm, mark, which is not even proved to have existed. Why should this man, who has taken no part in politics—who was never known to express extravagant opinions,—as to whom there is no pretence of political enthusiasm,—why should it be said that he was driven by political enthusiasm to the assassination either of Sir R. Peel or Mr. Drummond? There is no evidence to shew that he did intend to shoot Sir R. Peel, save that of the policeman. I hardly know whether I am not throwing away time in devoting a single observation to the evidence of a man whose own statement justifies me in saying that he was acting a thoroughly treacherous part—a man who now shews himself in his true colours—an inquisitor and a spy—but who then, in the garb of fairness and honesty, sought to worm himself into the secrets of the unhappy man at the bar. I allude to the statement made before the magistrate as to the conversation he had with the prisoner. Having gently insinuated himself into the man's confidence, he asks a question as to the identity of the individual who had been shot. The answers he says the prisoner gave may be true or false—the statement of that witness may be consistent with truth, or it may be a fabrication—I know not—care not. Sure I am of this, that whatever may be the nature of the crime with which a man may stand charged, a British jury will hesitate to admit any one single fact which is an essential ingredient in the proof of the case, on the unsupported testimony of an individual who has manifested so much black perfidy, which will remain indelibly stamped upon his character. If the statement were true, why should it rest upon the evidence of that policeman only, when it is clear that at part of the conversation at least there was also a constable present? But I really waste time upon this part of the case, and I will proceed at once to a more important point—namely, the conduct of the prisoner himself after he had been brought before the magistrates. And this brings me to the question, whether or not the delusion under which the prisoner previously laboured existed in his mind at the time the act was done with which he now stands charged, and in truth was the cause of that act? I have already laid before you circumstances (and they will be proved in evidence) which establish beyond all controversy the existence of a delusion, exercising a blind and imperious influence over the man; and I have only further to establish, that the delusion led to the act, and was subsisting at the time that act was done. But surely it would be most monstrous and unjust, to say that the same degree of delusion which prevailed eighteen months or two years before, did not exist at the time of his committing the act. Look but to the conduct of the party at the time the act was committed, and also at the examination which followed, and then no doubt can exist in your minds, that the same delusion, in the same degree of intensity, at that time existed in the prisoner's mind, which I have shewn to have been there eighteen months or two years before. What was his statement when he was brought before the magistrate? He said, "The Tories in my native city have compelled me to do this. They follow and persecute me wherever I go, and have entirely destroyed my peace of mind. They followed me to France, into Scotland, and all over England; in fact, they follow me wherever I go. I can get no rest for them, night or



day. I cannot sleep at night in consequence of the course they pursue towards me. I believe they have driven me into a consumption. I am sure I shall never be the man I formerly was. I used to have good health and strength, but I have not now. They have accused me of crimes of which I am not guilty; they do everything in their power to harass and persecute me; in fact, they wish to murder me. It can be proved by evidence; that's all I have to say." Save only that the enemies he spoke of, and their persecution were the phantoms of a disordered mind,—his statement was true. True it was that he was a different man, in health of body, and in health of mind—quite different in the regulation of his passions and propensities—he that at home had been a quiet, calm, inoffensive man—one who never raised his hand against a human being or created thing, had been converted by the pressure of imaginary evils into a shedder of human blood. This statement of the prisoner, which doubtless, at first, was received with suspicion, shows, when coupled with his previous history, in a totally different light, and now cannot be regarded otherwise than as the true and genuine expression of the feelings which were alive in his breast. No wonder that in the first excitement of popular feeling such a statement should be unfavourably received—the people had seen an innocent and unoffending man perish by the hand of an assassin—they were justified in viewing with distrust manifestations of insanity which might be only assumed, but now, when the fearful delusions under which this man has so long laboured are made clearly known to you, the whole matter will, I am sure, be regarded by you under a totally different aspect. But then the Solicitor-General speciously asks, whether this is not the case of a man feigning and simulating insanity, in order to avoid the consequences of his crime? It is not so—it is the case of a man who manifested, after the deed was done, the same delusion, which will be proved to have been present in his mind for months—nay, years before the act was committed. But I shall not leave this part of the case upon the prisoner's statement alone, for I am enabled to lay before you evidence that will satisfy your minds of the prisoner's insanity since he has been confined within the walls of a prison. He has been visited by members of the medical profession, of the highest intelligence and the greatest skill—not chosen by the prisoner himself—but some of them selected by his friends and others deputed by the Government which my honourable and learned friend, the Solicitor-General, represents on the present occasion. They visited the prisoner together several times—they together heard the questions put to him, and noted the answers he gave. My learned friend has accurately told you the nature of the defence I have to offer; he has sought to anticipate it by evidence to establish the prisoner's sanity. How is it, then, that the medical men employed by the Crown have not been called? Why, my learned friend has now beside him, within his arm's-reach, two of the medical gentlemen sent by the Government, and he has not dared to call them. My learned friend knew (because their opinions have been communicated to the Government and to my learned friend) that the man was mad, and in justice to the public and to the prisoner, those gentlemen ought to have been brought forward. If the result of their opinions had been made known—if they had expressed their unalterable conviction that the man was mad, I should have been spared the trouble and anxiety of addressing the Jury; the case for the prosecution would have broken down, and you, gentlemen, would have been told you could not consign to ignominious death a man, whom the medical authorities chosen by the Crown to examine him were compelled, by duty to themselves and to their consciences, to declare to be insane. I was astonished when the case for the prosecution was closed without those two witnesses being called. They sat within my



learned friend's call, and yet my learned friend, in the exercise of the discretion which is his characteristic, dared not put them in the witness-box. Their testimony is, however, upon record: it requires not their delivery by their own mouths of the opinions I know them to entertain; their absence from the witness-box speaks trumpet-tongued as to the opinions they were ready to pronounce, and when I call before you the medical gentlemen who have attended at the request of the friends of the prisoner, and have communicated with this poor deluded maniac, and it is found that their opinions correspond in all particulars, there will not be left a shadow of doubt that this was no simulated insanity, but a real delusion, by which the prisoner was deprived of all possibility of self-control, and which left him a prey to violent passions and frenzied impulses. I know there has been much said of the danger of admitting a defence of this kind. I do not dispute it—it is a defence at which it is the province of a court and jury to look with care. True, it is a defence easily made, but it is a defence which the sagacity of courts and juries prevents being too easily established. If an offender should first suggest insanity as a defence after the perpetration of a crime, the eye of suspicion would naturally rest upon such a defence. Here, however, there can be no pretence for saying there is the slightest reason to believe that this was a case of feigning and simulation, when I shall have proved the existence of the delusion for the space of two long years before, as well as its continuance since, the act was committed. When I have proved this, my learned friend will not dream of contending that this is a case of simulation. Again; I ask, is there no distinction between the manner in which the common murderer who acts under the impulse of ordinary motives executes his purpose, and that of the unhappy maniac, who, in self-defence as he thinks, slays one who in his delusion he fancies is attacking him? There is every distinction. The ordinary murderer not only lays plans for the execution of his designs; not only selects time and place best suited to his purpose; but when successful, he either flies from the scene of his enormities, or makes every effort to avoid discovery. The maniac, on the contrary, for the most part, consults none of the usual conveniences of crime; he falls upon his victim with a blind fury, perhaps in the presence of a multitude, as if expressly to court observation, and without a thought of escape or flight; not unfrequently he voluntarily surrenders himself to the constituted authorities. When, as is sometimes the case, he prepares the means, and calmly and deliberately executes his project, his subsequent conduct is still the same as in the former instance. The criminal often has accomplices, and always vicious associates; the maniac has neither. On this point, Dr. Prichard\* observes,—“The manner in which the murderer sets himself to the consummation of his crime, as well as his subsequent conduct, is very different from the proceedings of a madman. The former often has accomplices; he commences with premeditation, lays a plan beforehand, chooses time, place, and circumstances adapted to the perpetration of the deed, and generally has contrived some method of escape. He always studies concealment and personal safety, and when there is danger of detection, uses all possible despatch to escape the punishment due to his crime. All these particulars are reversed in the proceedings of the madman. He has no accomplices, he never communicates his purpose to any human creature; he rushes on his victim, for the most part, as if driven by a sudden impulse; seizes whatever weapon chance throws in his way, and sometimes seems to be excited powerfully to the attempt by the sight of implements fitted to his purpose. He lays no plan for his escape, and seldom attempts it after perpetrating the act. Often he has been known to sit down quietly when he

\* Prichard “On the Different Forms of Insanity,” p. 127.



could easily escape, and wait till he is seized by the officers of justice." But what was the case in the present instance? The prisoner does not attempt to escape—he acts coolly and deliberately—he shews himself to be a maniac seeking only the gratification of his involuntary impulse—he made no attempt to secure his own safety by flight or escape, though he knew that the noise of his first pistol must have attracted attention to the spot: though he saw Mr. Drummond's coat in flames, and his victim staggering under the shot, though he must have known that his purpose was effected, instead of thinking of himself, he drew forth the other pistol—with a deliberate intent he passed it from one hand to the other—he levelled it at his victim, and when the policeman had even seized him, still the struggle was not to escape, but to raise his arm and to carry out the raging impulse of his burning and fevered brain. A common murderer would have acted in a different manner; he would have chosen a different time, a different place; he would have sought safety by escape. Gentlemen, I have mentioned that I shall call medical men of the highest rank in the profession—men who have frequently been employed by the Government in cases of this nature, and upon whose characters the stamp of the highest approbation has thus been placed. They will state the result of their examinations of the prisoner, and their evidence upon the whole will be such as to leave no other than a firm conviction that he is insane. I shall also call the surgeon of the gaol, whose duty it has been to see him daily, and whose facilities of observation have therefore been such as to enable him to come to a sound conclusion, and who, besides, was directed to pay particular attention to the state of the prisoner's mind. My friend has not thought fit to call him. I will call him. You will hear from that gentleman the result of his deliberate and impartial judgment, which is, that the prisoner is labouring under morbid insanity, which takes away from him all power of self-control, and that he is not responsible for his acts. When I have proved these things, I think the defence will be complete. I do not put this case forward as one of total insanity—it is a case of delusion, and I say so from sources upon which the light of science has thrown its holy beam. I have endeavoured to shew the distinction between partial delusion and complete perversion and prostration of intellect. I may, however, perhaps be allowed to refer to one more author on this subject. I allude to M. Marc, physician to the King of the French, and one of the most profound investigators of this disease. I will translate the passage as I proceed. M. Marc, in his Treatise "*De la Folie*"\* says, "Homicidal monomania is a partial delusion characterized by an impulse, more or less violent, to murder; just as suicidal monomania is a partial delusion characterized by a disposition, more or less voluntary, to destroy oneself. This monomania presents two very distinct forms. In some cases the murder is provoked by an internal, but raving conviction—by the excitement of a wandering imagination—by a false reasoning, or by the passions in delirium. The monomaniac is impelled by some motive obvious but irrational; he

\* M. Marc, *De la Folie*, p. 25. "La monomanie homicide est donc un délire partiel, caractérisé par une impulsion plus ou moins violente au meurtre; tout comme la monomanie suicide est un délire partiel, caractérisé par un entraînement plus ou moins volontaire à la destruction de soi-même. Cette monomanie présente deux formes bien distinctes. Dans quelques cas, le meurtre est provoqué par une conviction intime, mais délirante; par l'exaltation de l'imagination égarée, par un raisonnement faux, ou par les passions en délire. Le monomaniac est mu par un motif avoué et déraisonnable; toujours il offre des signes suffisants du délire partiel de l'intelligence ou de l'affection. Quelquefois sa conscience l'avertit de l'horreur de l'acte qu'il va commettre: mais la volonté lésée est vaincue par la violence de l'entraînement; l'homme est privé de la liberté morale; il est en proie à un délire partiel, il est monomaniac, il est fou. Dans d'autres cas le monomaniac homicide ne présente aucune altération appréciable de l'intelligence ou des affections. Il est entraîné par un instinct aveugle, par quelque chose d'indefinissable que le pousse à tuer."



always exhibits sufficient signs of partial delirium, of the intelligence or of the affections. Sometimes his conscience makes him turn with horror from the act which he is about to commit; but his will is overcome by the violence of his impulse—the man is deprived of his moral liberty—he is a prey to a partial delirium—he is a monomaniac—he is mad. In the other cases the homicidal monomaniac does not present any alteration of the intelligence or affections—he is carried away by a blind instinct—by something indefinable which impels him to kill.” I think, gentlemen, I have sufficiently dwelt upon the authorities which can throw light on this inquiry. I trust that I have satisfied you, by these authorities, that the disease of partial insanity can exist—that it can lead to a partial or total aberration of the moral senses and affections, which may render the wretched patient incapable of resisting the delusion, and lead him to commit crimes for which morally he cannot be held to be responsible, and in respect of which, when such a case is established, he is withdrawn from the operation of human laws. I proceed now to lay the evidence before you. In doing so, I shall give my learned friend the Solicitor-General the opportunity of a reply. In this case it will be of considerable advantage, for he will have the opportunity of addressing you, and commenting on the evidence after it all shall have been given; whereas I can only anticipate what it may be. Many facts may be spoken to by the witnesses—many important observations may fall from them—on which I shall be deprived of all comment. The arguments which my friend’s profound experience and his great legal acquirements may suggest are yet within his own mind—I can but dimly anticipate them. If any advantage should exist in such a case, surely it should not be on the part of the prosecution, but of the prisoner. And my learned friend, moreover, will have the immense advantage resulting from that commanding talent before which we all bow down. But I know that he will prolong to the end of this eventful trial that calm and dispassionate bearing, that dignified and appropriate forbearance, which sat so gracefully on him yesterday. Gentlemen, my task is at an end. I have received at your hands, and at the hands of the Court, a degree of considerate attention for which I owe you my most grateful acknowledgments. I ought to apologize to my lords and to you for the length of time that I have detained you; but you know the arduous and anxious duty which I have had to perform, and you will pardon me. From the beginning to the end I have felt my inadequacy to discharge it; but I have fulfilled it to the best of my poor ability. The rest is with you. I am sure that my observations in all that deserves consideration will be well weighed by you, and I am convinced that the facts of this case, and the evidence adduced in support of them, will be listened to by you with the most anxious and scrupulous attention. You can have but one object—to administer the law according to justice and to truth; and may that great Being from whom all truth proceeds guide you in this solemn inquiry, that when hereafter the proceedings of this memorable day, and their result shall be scanned by other minds, they may bear testimony that you have rightly done your duty; and, what to you is far more important, that when, hereafter, in the retirement of your own homes, and the secrecy of your own thoughts, you revert to the part you have taken in the business of this day, you may look back with satisfied consciences and tranquil breasts on the verdict you will this day have given. Gentlemen, the life of the prisoner is in your hands; it is for you to say whether you will visit one on whom God has been pleased to bring the heaviest of all human calamities—the most painful, the most appalling, of all mortal ills—with the consequences of an act which most undoubtedly, but for



this calamity, never would have been committed. It is for you to say whether you will consign a fellow being under such circumstances to a painful and ignominious death. May God protect both you and him from the consequences of erring reason and mistaken judgment! In conclusion, let me remind you, that, though you do not punish the prisoner for an offence committed at a time when he was unconscious of wrong, you have, on the other hand, the power of causing him to be placed in an asylum, provided by the mercy of the law, where he will be protected from the consequences of his own delusions, and society will be secured from the danger of his acts. With these observations I trust the case in your hands, with the full conviction that justice will be upheld in the verdict to which you shall come.

Daniel M'Naughton, examined by Mr. Clarkson.—I reside at Glasgow, and am a turner by business. The prisoner, who is a natural son of mine, was apprenticed to me, and after he had served about four years and a half, became my journeyman, in which capacity he continued for about three years. I think it is about fifteen or sixteen years since he was apprenticed. When he left me he went into business as a turner on his own account; and after he had been in business, I think, about a twelvemonth, he removed to Stockwell-street, where he remained for nearly five years. He was always a very steady, industrious young man, and exceedingly temperate in his habits. After he went into business, I did not see him so often, although I saw him then frequently. He seemed to me more distant than formerly, but I knew of no reason for his being so. He would frequently pass me in the street, and not speak to or notice me. I was aware that he lodged at Mrs. Patterson's, but never visited him there. At that time I knew he had disposed of his business. About two years ago I recollect the prisoner calling at my house, and, upon seeing me, he expressed a wish to have an interview in private. We went into a room alone, and he then told me that various persecutions had been raised against him, and begged that I would speak to the authorities of the town upon the subject, in order to have a stop put to them. He particularly mentioned the name of Mr. Sheriff Alison, as one of the persons I was to speak to. I asked who the persons were that persecuted him, and he told me that Mr. Sheriff Alison knew all about it. I told him I was extremely sorry to hear that he was so persecuted, and endeavoured to persuade him that he was labouring under some mistake. I told him that I was not aware of any person being persecutive in Glasgow. Finding that he was labouring under some delusion, I said nothing more upon the subject, but tried to turn the conversation. We then talked upon other subjects, upon all of which he spoke rationally enough. He then asked me to get him a situation in some counting-house in Glasgow. I promised him that I would endeavour to do so, but told him that I thought he had in the first instance better go to some respectable teacher, and learn writing and arithmetic. He said he would do so, and we then parted. About a week after that interview, he again called upon me, and inquired whether I had, according to my promise, caused the authorities to take any measures to prevent the persecution which was going on against him? I told him that I thought after our last interview he would have gone to school, and banished all such ideas from his mind. He then said that the persecution still continued, and that he was followed night and day by spies; wherever he went, they followed him. I asked him who the spies were, whether he knew any of them, or whether he could point them out? To which he replied, that it would be quite useless to point them out, as they were always in his presence; wherever he might be, whenever he turned round, there they were. I asked him whether he ever spoke to them, or they to him? He said they never spoke to him, but whenever he looked at them they laughed at him, and shook their fists in his face, and those who had sticks shook them at him. He also said, that one of the men, whenever he looked at him, threw straws in his face. I asked him whether, if I went out with him, he could point out any of the spies to me? He said, "Oh, no; if they see any one with me, they will not follow at all; it is only when I am alone that they follow and annoy me." I then asked him what he thought they meant by shewing him straws? To which he replied, he presumed it meant that he was to be reduced to a state of beggary by them. I told him that if he really saw a person with straws, in all probability it must be some person out of his mind. After some further conversation in the same strain, he begged of me, nay, insisted upon my calling on Mr. Sheriff Bell, who, he said, also knew all about it. He asked me whether I knew Sheriff Bell? I told him I knew him only by sight, having seen him very frequently, but I had never spoken to him. He again asked me whether I would call upon that gentleman, and request him to use his influence to put an end to the persecutions. I asked him what I was to say to the sheriff when I saw him, and he told me that I knew better what to say than



he did. I told him that I had no objection to go the sheriff, but that I really did not know what to say to him. He said I must go to him, as a similar system of persecution was being carried on against other persons in Glasgow. I then promised him that I would see Sheriff Bell upon the subject, and with that assurance the matter dropped, and we had a conversation upon other affairs for a short time, and he then went away. In about a week he called upon me a third time, and asked whether I had seen Sheriff Bell upon the subject of our former conversation. I told him I had not. He then said the persecution still continued, and inquired why I had not seen Sheriff Bell according to my promise, as he knew all about the matter. I made no reply to that question, but asked him whether he had received any letters from any person upon the subject, and he told me that he had not. I also asked him whether any person had threatened to do anything to him, to which he also gave the same answer. I frequently asked him whether violent language had been used towards him, to cause such a delusion in his mind? He said there had not. He then asked me whether I knew the Procurator Fiscal? I said I did. He wished to know if I would call upon him, if I did not like to call upon Sheriff Bell. I told him, that if he would point out any individual who annoyed him, I would certainly call upon that gentleman or any one else: but he said he could not find out where any of them lived. I asked him whether he took notice of the persons who followed him about, whether he could give any description of them, and how they were dressed? He said they had Scotch dresses on. I intimated that he might probably be able to identify some of them, but he said he could not—he did not know them. He, at that time, appeared to become very much excited, and said the spies were constantly following him, and he could get no rest for them either night or day. I then turned the conversation to another subject, and, after a short time, he went away. I saw nothing more of him for a considerable time, and I then accidentally met him on the road, a short distance (about four miles) from Glasgow. We had a conversation for upwards of an hour, and the chief topic was the persecution he was enduring; he repeated the assertions respecting the spies, and complained of his being followed and annoyed by them wherever he went; he declared that he had used his utmost endeavours to get rid of them, but it was all in vain; he said he had left Glasgow, and had gone to England, and even to France, to get rid of them, but they still followed him; the moment he landed in France, there they were also. After that interview he called upon me again, and requested that I would prevail upon the authorities, particularly Sheriffs Alison and Bell, to put an immediate stop to the persecution. On that occasion I reasoned with him for some time upon the folly and absurdity of supposing that such a conspiracy existed against him, and assured him that such was not the case; and I then thought that the impression was effaced. He again spoke to me about getting him a situation, and I promised I would do so. Between that interview and the month of September, he called upon me several times, and always requested me to see the authorities upon the subject. I never saw any of the civil authorities, as I saw that he was labouring under some extraordinary delusion, and therefore considered it quite unnecessary. I was not aware of his intention of coming to London in September last, as he never mentioned the subject to me. From that time, until after he was in custody, I never saw anything of him.

Cross-examined by the Solicitor-General.—The prisoner never told me where he was living, and I really did not know where. The last interview I had with him was in August last, shortly before he came to London. When he was apprenticed to me he lived in my house, but whilst a journeyman he went into lodgings. I do not know his reason for leaving my house, but it certainly was not on account of any quarrel. He did not go into business for himself before he left my house, nor till some time afterwards. I believe he went into business for himself because he felt dissatisfied at my not letting him have a share of my little business.

The Solicitor-General.—Did he ask you to take him into partnership?

Witness.—Yes, he did; but I refused, because I had some younger children to provide for. After he went into business, we very seldom spoke. For a long time I think he fancied that I was annoyed because he took some of my business from me, which was not the case. I know that his shop was in Stockwell-street, but I never went there. I did not know where he resided. I believe he carried on business in Stockwell-street for about five years, and disposed of it two years ago. I was aware that he had left his business. We were not at all upon the terms that a father and son usually are. At times, party politics run very high at Glasgow. I am not certain as to the fact, but I believe Mr. Sheriff Bell belongs to the Tory party.

The Solicitor-General.—At the time the conversations you have been mentioning occurred, what was your opinion with respect to your son's mind?

Witness.—It certainly was my impression that his intellects were impaired.

The Solicitor-General.—Did you consult any medical gentleman?

Witness.—I did not, because I thought the delusions under which he was labouring would eventually pass away.



The Solicitor-General.—Then am I to understand that upon all other subjects he conversed rationally?

Witness.—Yes, upon all subjects, except the one I have mentioned.

Re-examined by Mr. Clarkson.—The prisoner continued to work at my shop after he left my house. He frequently passed me in the street without taking the slightest notice; it was his own act to do so, not mine. He was always a very harmless, inoffensive youth, and appeared harmless when labouring under those delusions. I never heard of his having evinced any disposition to do any injury either to himself or any one else.

William Gilchrist, examined by Mr. Bodkin.—I am a printer, and reside at No. 32, Centre-street, Tradeston, near Glasgow. I have known the prisoner since the year 1834. I first became acquainted with him in consequence of lodging with him at the house of a Mrs. Dalgleish, at Gorbals. We slept in the same bed, and continued to do so from the month of April, 1834, to May, 1835. The prisoner used frequently to get up in the night and walk about the room, uttering incoherent sentences, and making use of such ejaculations as "By Jove," "My God." He uttered them in a very serious manner, but not in a very loud tone. Sometimes he would walk about the room by the hour together whilst undressed, and then return to bed. Such conduct occurred from time to time during the whole period we lodged together. His conduct was always that of a mild, inoffensive, and humane man. I have frequently seen him, when we have been going out to take a walk, put crumbs of bread into his pocket to feed the birds with. He appeared to be very fond of children, and I have observed him watch the children at play for hours; he said he liked to see their innocence. The last time I saw the prisoner was in July, 1842, when we walked together for a short distance. I then thought he was altered, both in manner and appearance, for when I looked at him he always dropped down his head and looked on the ground. I also observed that his conversation was not so connected as formerly. I have known the prisoner sometimes in the course of the night, as well as at other times, burst out into immoderate fits of laughter without any cause whatever; at other times he would moan. I never knew him to attend any political meetings, or express any extravagant political opinions. When I last saw him he told me, in the course of conversation, that when he was in London he went one night to the House of Commons, and heard Sir Robert Peel, Lord John Russell, and Mr. O'Connell speak, and he expressed himself highly delighted.

Mr. Bodkin.—What did he say?

Witness.—He said he thought Sir Robert Peel had arrived at what Lord Byron had said of him, "that he would be something great in the state;" he said he thought Lord John Russell was very inferior as a speaker to Sir Robert Peel, and that Mr. O'Connell was inferior to both.

Mr. Bodkin.—Did you ever hear him, either on that or any other occasion, speak at all disrespectfully of Sir Robert Peel?

Witness.—Certainly not.

Cross-examined by Mr. Adolphus.—The ejaculations which I have spoken of, and also the laughter, might have been caused by the recollection of something he had previously heard, and of which I was not aware.

Mr. Adolphus.—Did you ever hear him speak about Sir R. Peel's political character?

Witness.—Never.

Mr. Adolphus.—Or make use of any threat towards him?

Witness.—No.

John Hughes, examined by Mr. Monteith.—I reside at Glasgow, and am a tailor. I know the prisoner in consequence of his having lodged at my house for seven months during the year 1835. A person of the name of M'Cordigan also lodged with me, and slept in the same bed with the prisoner. M'Cordigan made several complaints to me about the prisoner disturbing him during the night, and he left me in consequence. Whilst the prisoner was in my house I slept with him two or three times, and I found him a most uncomfortable bedfellow; he would sometimes throw his arms about in all directions, then he would kick; at other times he wrapped the bed-clothes round his legs, and kicked about in that manner; he was very restless, although he slept extremely sound. Whilst he remained at my house he never had any person call upon him. I observed that his manner and behaviour were generally very strange. He did not appear to be fond of society, and scarcely ever spoke unless first spoken to, and then his replies were quick and hurried, as if he wished to avoid conversation. I also noticed that when any person spoke to him, if their eye caught his he immediately looked down to the ground, as if ashamed; whenever he asked for anything he appeared confused. His general hour for going out in the morning was seven o'clock. He came to his meals regularly, and usually returned home about seven o'clock in the evening. When at his meals he was generally reading, and would frequently sit up half the night to read after the family had retired to bed. In consequence of his very strange manner I gave him notice to leave, but he



was very unwilling to go away. Another reason I had for wishing him to leave was in consequence of the infidel doctrines he maintained, and the books of such a character which he was in the habit of reading. I always have family worship in my house every Sunday, and generally in the week days. The prisoner mostly attended on Sundays, but not on other days, as he was at work. I recollect one morning, about a month before he left, when he returned to breakfast, he came up to myself and my wife in a very excited state, and said he wished to ask me a question. I asked him what it was. He then said, that he wished to know whether any person had been saying anything against him? I told him there had not, and he said he had strong reasons for suspecting there had. He then sat down to breakfast, and did not utter another word. In the evening he again put the question to me, and I gave him a similar answer. He then appeared much excited.

Chief Justice Tindal.—Was that before you gave him notice to leave or afterwards?

Witness.—Afterwards. I gave him notice to leave two months before that, but he seemed unwilling to go.

Cross-examined by the Solicitor-General.—I never saw the prisoner after he left my house, which was in December, 1835. I always noticed from the time I first saw him, that he was in the habit of looking to the ground whenever he was spoken to. At the time he was with me he was in business in Stockwell-street. I did not tell him the true reason why I wished him to leave my house. I assigned as a reason that my wife could not wait upon him any longer.

The Solicitor-General.—Did you observe any particular difference in his behaviour whilst he was at your house?

Witness.—Yes, I thought his appearance just before he left was more strange than when I first saw him.

Mr. Justice Coleridge.—Have you any children living in your house.

Witness.—I have, my lord.

Mr. Justice Coleridge.—Did the prisoner seem fond, or take any notice of them.

Witness.—He never used to take any notice of them.

William Carlo, examined by Mr. Clarkson.—I am now carrying on business as a turner in Stockwell-street, Glasgow. I have known the prisoner for the last seven years, and was in his employ as journeyman for nearly three years, down to 1838, but I frequently went to see him afterwards. He had a very good business in 1840; he very much pressed me to take his business of him, but I declined to do so, as I then had something else in view. In the early part of the following year he again pressed me to take his business of him, and upon my expressing a disinclination to do so, he said he would put the whole concern up by public roup (auction), as he intended to go into another business, but we eventually entered into an arrangement about it, and I took possession in 1841. Whilst I was in his employ he frequently complained of a pain in his head, and would often keep his hand to his head, as if in pain, the greater part of the evening. When in this state I have known him on several occasions go and bathe in the Clyde, which is near the premises, in order to get rid of it. I have very frequently seen him since 1841, but never observed anything particularly the matter with him till about six months ago. I had frequently heard it stated during the last eighteen months that there was something wrong about him, but I did not believe it. In consequence of those rumours, however, I went to see him whilst lodging at Mrs. Patterson's. We then walked out together, and he gave me a description of his visit to France; the only motive he assigned to me for going there was curiosity. In the course of our conversation he told me he was very much persecuted by certain parties, who always followed him about wherever he went, and that he could get no rest for them night or day. He said they were using all their influence against him, in order to prevent his getting a situation; whether he went to France, England, or Scotland, the spies were always about him. He told me it was immaterial in what country he was, for they were sure to send their emissaries before him, and he was known wherever he went. I asked him who the parties were, and he told me they were Scotchmen, and natives of Glasgow. I told him it was all imagination, and endeavoured to persuade him to think nothing more about it. I also told him that if any person ill-used him or slandered him I would have them punished, as I considered his character was very good. He said he would do so; and added, that if he could once set his eyes upon them they should not be long in the land of the living. After the conversation had continued for some time he became very much excited; and, seeing that he was labouring under some extraordinary excitement, I considered it prudent to drop the subject. In consequence of that conversation I immediately came to the conclusion that he was not in his right mind.

Cross-examined by Mr. Waddington.—When I first became acquainted with the prisoner he was lodging at Hughes's; that was in 1836. I never noticed anything extraordinary in his behaviour till the period I have just mentioned, although his habits were rather eccentric.

Mr. Waddington.—What do you mean by eccentric?



Witness.—Why, that he was very hard-working and penurious; he was also eccentric in his dress. The last few times that I saw him I noticed that he was not quite so cheerful as usual, though he was generally sullen and reserved, and always evinced a disposition to evade conversation.

Mr. Justice Coleridge.—What did you pay him for his business?

Witness.—Eighteen pounds.

Mr. Justice Coleridge.—Did that sum include the tools?

Witness.—Yes; but there were very few, and most of them were worn out.

Jane Drummond Patterson, examined by Mr. Bodkin.—I reside at Glasgow. I know the prisoner. He lodged in my house about two years ago. After he had lodged with me a short time I observed something very peculiar in his manner. His eyes presented a very strange appearance; he looked wild, and very different from what he used to do. He was also very restless in his sleep. I observed the same restlessness in his sleep about the same time that I observed the appearance in his eyes. He left me for a short time, but returned again. Before he went away the first time I thought his eyes appeared rather better. I frequently heard him moan and groan in his sleep, and sometimes he spoke as if disturbed. The prisoner was extremely retired in his habits, and during the time he lodged with me he never had any person but one young man to call and see him. When he returned after he first left me, he said that he had been in London and to France. He then appeared very poorly; he was not so stout. After remaining about three months he went away a second time, but again returned. He then told me that he had been a second time to France, and his object in doing so was to purchase a commission in the army. I told him he had better stop away altogether, to which he replied that he could not stop either in London or France, as he was constantly haunted by a parcel of devils following him, and said they were persons from Glasgow. He appeared then rather angry. I spoke to him upon the subject several times afterwards. I at length began to be afraid of him, and expressed a wish for him to leave my house. He said he would leave as soon as possible; he could get situations anywhere, but it was of no use, as they were all haunted with devils. On one occasion, a few days before he left, which was in September, I found some pistols in his room. I said, "What in the name of God are you doing with pistols there?" He said he was going to shoot birds with them. I never saw the pistols after that. Latterly he was in the habit of lying on the bed nearly all day. He sometimes complained of lowness of spirits, and said he felt a great pain and burning in the chest. On one occasion, when I was speaking to him about getting a situation, he laid hold of me, made use of an oath, and looked very wild. When he went away he took nothing with him but the clothes on his back. I noticed when he went away that he looked very wild and frightsome-like.

—Cross-examined by the Solicitor-General.—I noticed the peculiarity of his eyes when he first came to lodge with me, but he did not mention anything about being haunted by devils till three or four months afterwards.

Re-examined by Mr. Bodkin.—I knew a man of the name of Forrester, a hair-dresser at Glasgow; he made a communication to me respecting the prisoner. I met Forrester in the street one day when I was going to Sheriff Alison's respecting the prisoner, when he said he (prisoner) was a "daft" man. He wanted me to take him to Mr. Alison's, but I refused to do so.

By the Solicitor-General.—Forrester has been to my house but very seldom, not more than twice; my husband has been away from home for the last twelvemonth. Forrester did not come to see me during my husband's absence. I heard that he was at my house in May last, when I was in London. He came to see the prisoner. Though I saw Forrester every day, I seldom used to speak to him.

Henry C. Bell, Esq., examined by Mr. Monteith.—I am one of the sheriffs depute of the county of Lanark, and reside at Glasgow. I do not know the prisoner personally, but he very much resembles and I believe him to be the person who called upon me some time ago (I think it must be about nine or ten months), and complained to me that he was harassed to death by a system of persecution, which had for some time been adopted towards him, and for which he could obtain no redress whatever. I told him I would render him any assistance in my power, and asked him the nature of the persecution he complained of. He made a long, rambling, unintelligible statement in reply, from which I gathered, as far as I can recollect, that he was constantly beset by spies, and that he considered his life and property in danger. I told him that I thought he must be labouring under some very erroneous impression, and advised him, if he had any criminal charge to make against any person, to go to the Procurator-Fiscal, or if his complaint was of a civil nature, to apply to some man of business. He said it would be perfectly useless to make any such application, and appearing dissatisfied with my answer, he went away. The same person called upon me again about a fortnight or three weeks afterwards. I asked him whether he had seen the Procurator-Fiscal or a man of business, and he said he had not. He then made another



statement of a precisely similar character, but I told him that I could not render him any assistance, and he then went away.

Mr. Monteith.—What was the impression upon your mind with respect to the state of the prisoner's mind?

Witness.—I certainly concluded that he was not right in his intellects—that he was labouring under some very extraordinary delusion, and I made a remark to that effect to my clerk.

This witness was not cross-examined.

Alexander Johnston, Esq., M.P., examined by Mr. Clarkson.—I know the prisoner at the bar. He called upon me about a twelvemonth ago (previous to which period I knew nothing of him), and complained of being subjected to an extraordinary system of persecution, and wished for my advice as to the best method of getting rid of it. On subjects of general business he talked very rationally, but with respect to the particular business upon which he called upon me, he said that he had for a considerable time been persecuted by the emissaries of a political party, whom he had offended by interfering in politics. He also complained of being attacked through the newspapers, and said the persons of whom he complained followed him night and day; that he could get no rest for them; that they had destroyed his peace of mind, and what to do he really did not know. I reasoned with him, and told him that I thought he must be mistaken; assured him that nobody followed him about, and advised him, if he received any annoyances, to apply to the captain of police. He then said that he thought his persecutors would be satisfied with nothing less than his life. When I told him that I thought he was mistaken, he said that he was quite certain that he was not. He assured me that he was perfectly sound in his mind, and in good bodily health. He then left me.

Mr. Clarkson.—What was the impression left upon your mind by that interview?

Witness.—I certainly thought that what he stated was his firm conviction. In about a week or ten days the prisoner again called upon me, and he then told me that his persecutors were still pursuing him, and wished me to take some steps in order to deter them from so doing. I again recommended him to go to the sheriff, and assured him that if he was in reality annoyed as he had described, he would be protected. I merely told him that in order to get rid of him, feeling assured that he was labouring under a delusion. About a month after the last interview, I came to London, and in a few days I received a letter from the prisoner, reiterating the same complaints, and begging of me to interfere in his behalf; to that communication I wrote the letter produced.

Mr. Clarkson.—Have you the letter you received from the prisoner?

Witness.—No, I have not.

Mr. Clarkson.—We propose now, my lord, to put in and read the letter this witness wrote to the prisoner.

Chief Justice Tindal.—Be it so.

The clerk of arraigns then read the letter as follows—

“Reform Club, May 5, 1842.

“Sir,—I received your letter of the 3d of May, and am sorry I can do nothing for you. I fear you are labouring under an aberration of mind, and I think you have no reason to entertain such fears.

I am, &c.,

“ALEXANDER JOHNSTON.

“Mr. D. M'Naughton.”

Cross-examined by the Solicitor-General.—I had no knowledge of the prisoner previous to his calling upon me; neither had I any other conversations with him, but those I have stated.

Sir James Campbell, examined by Mr. Cockburn.—I am Lord Provost of Glasgow, and was so in the year 1842. I recollect, that some time in the month of May in that year, the prisoner called upon me, and I had a conversation with him. I asked him the object of his visit, and he said he wanted my advice and protection. He then said, that he was the victim of an extraordinary persecution; that he was followed and beset by spies night and day, and that he could not get rid of them; they dogged him wherever he went, and he could not in consequence get any rest night or day; that he was afraid to go home, and had therefore been compelled to sleep in the fields in the suburbs of the town. I asked him who his persecutors were, and he told me they were persons who had an ill-feeling towards him, and that he considered his life in danger in consequence. I at once saw that he was labouring under a strange delusion, and told him that he was labouring under some hypochondriac affection, for which he ought to have advice, and asked him whether he had ever been treated as an insane person? He said he had not, and endeavoured to persuade me that he was in the enjoyment of sound mind and health. After some further conversation, I advised him to consult with his friends upon the subject, and suggested the propriety of seeing some medical gentleman. He did not appear to be satisfied with what I stated to him, and he then went away. I immediately sent for the prisoner's father, in order to let him



know what had taken place, but he did not wait upon me, and I took no further steps in the affair. I felt no doubt at the time that the prisoner was labouring under some species of insanity.

Cross-examined by Mr. Waddington.—I did not notice anything particular in the prisoner's appearance, and I should not have observed there was anything wrong about him had it not been for what he stated. He was a total stranger to me, and I should think the conversation did not last more than five minutes.

The Rev. Alexander Turner, examined by Mr. Clarkson.—I am minister of the parish of Gorbals, near Glasgow. About seven or eight months ago, I recollect the prisoner calling upon me at my residence. He told me that he was the son of Mr. M'Naughton, the turner, who was a member of my congregation. He told me, that for some time past he had been very much persecuted by a number of persons, who constantly followed him about, and who annoyed him in various ways; that, in order to escape their persecutions, he had gone to France, but had not been able to free himself from them. I think he said they had found him out in France; and that, as he could not get rid of them, his life was rendered perfectly miserable, and he talked about being haunted by them; he also told me that he had called, or was about to call on the Sheriff and Sir James Campbell, and likewise upon the Procurator-Fiscal, but they refused to do anything for him. I observed that he appeared to be labouring under a very great degree of excitement, which was evident from large drops of perspiration on his brow. I certainly thought that he was insane. In consequence of that interview, I called upon his father a day or two afterwards, and told him that I thought he ought to be put under restraint.

Cross-examined by Mr. Waddington.—To the best of my belief, that conversation took place about seven or eight months ago. I never saw the prisoner afterwards.

Mr. Hugh Wilson, examined by Mr. Bodkin.—I am a Commissioner of Police at Glasgow. I have known the prisoner for about ten or twelve years. I recollect his calling upon me, about eighteen months ago, to make a complaint. After some short conversation with him, I saw by his anxious manner that he had something to communicate. I asked him what he wanted, and he said that he had come to consult me on a very delicate matter; and, after some hesitation, said that he was the object of some persecution, and added, that he thought it proceeded from the priests at the Catholic chapel in Clyde-street, who were assisted by a parcel of Jesuits. I asked him what they did to him, and his reply was, that they followed him wherever he went, and were never out of his sight, and when he went into his bedroom he still found them with him. He was perfectly calm and collected when he first came in, but when he began to talk about the persecution, he became very much excited; and I then thought he was daft. I saw that he was extremely anxious upon the subject, and therefore told him to call again on the following Tuesday, and I would see what could be done for him. He then went away. He called according to appointment on the Tuesday, when he still persisted in the notion of his being persecuted. I wished him to give me some reason for supposing that he was persecuted, when he again repeated his complaints against the Catholics. I asked him what he had done to the Catholics; to which he replied, that he only wished they would tell him what they wanted with him. He also said there were other parties who annoyed him. I inquired who they were; when he said that some of the police were at the bottom of it, and I told him that upon that subject I would make some inquiries. The prisoner said that the police had the same appearance as the others, but he believed they were all in one concern. Seeing that I doubted what he stated, he said that if I knew what he suffered, I should not conceive it a trouble to inquire into the matter for him. I promised that I would do so, and he went away apparently satisfied. A few days afterwards I again saw him, when I told him I had forgotten to make the inquiry, but promised to speak to Miller, the superintendent, about it. When I again saw him, I told him that I had seen Miller, who said it was all nonsense and there was nothing in it; to which the prisoner replied that Miller was a bad one, that he saw it in his face, and he wanted to deceive both him and me. Having again run on about the Catholics and the Jesuits, he went away. In two or three days he again called, and on alluding to the subject, said, the Tories had joined with the Catholics, that he could get no rest either night or day, through their persecuting conduct, and he felt quite sure they would throw him into a consumption. At that interview I told him he had spoilt the scheme which I had planned for the purpose of finding out his persecutors, at which he appeared to be very much disappointed. I desired him not to look either to the right or to the left, and, if possible, let them see that he did not observe them. He said he would do so. After that interview, I did not see him for three or four months, when he again came to me and said, he was worse than ever. I told him he should get out of their way. He said he had been to Boulogne, and asked me if I knew the watch-box on the Custom-house quay, there? I told him I did. He then said that as soon as he landed, he saw one of his spies peep from behind it, and added, that it was no use going further, into France, and spending his



money, when he could get no relief. He appeared then worse than ever, and I advised him to go into the country and amuse himself by working, and not to think anything more about it; but he said it was no use going there, as they would be sure to follow him. I had several other interviews with him, and the last time I saw him was about the month of August last, when he made the same sort of complaint, and the delusion then appeared to be stronger in his mind than ever.

Cross-examined by the Solicitor-General. — The office I hold is not one of a political character. I have not canvassed the prisoner for his vote within the last twelve months. I have solicited his vote, but that was three or four years ago. When I saw him in August last, he was very much excited. He said the Police, the Jesuits, the Catholic priests, and Tories were all leagued against him.

Dr. E. T. Monro, examined by Mr. Cockburn.

Mr. Cockburn.—I believe, Dr. Monro, that you have devoted much attention to the subject of insanity: that you have had great experience in lunacy?

Witness.—I have devoted myself entirely to the subject.

Mr. Cockburn.—For a long period?

Witness.—Yes, for a period of thirty years.

Mr. Cockburn.—You were requested, by the friends of the prisoner, to visit him during his confinement in Newgate, for the purpose of ascertaining his state of mind?

Witness.—I was.

Mr. Cockburn.—I believe there were some other medical gentlemen who accompanied you?

Witness.—Yes, I was accompanied by Sir A. Morrison, Mr. McClure and other professional gentlemen.

Mr. Cockburn.—You met on that occasion some medical gentlemen, who were deputed on the part of the Crown to visit the prisoner?

Witness.—I met Dr. Sutherland, jun. and Dr. Bright.

Mr. Cockburn.—I believe you all saw the prisoner together?

Witness.—Yes, we saw and examined the prisoner together.

Mr. Cockburn.—How was the examination conducted?

Witness.—We all asked the prisoner questions in turn.

Mr. Cockburn.—Did you make at the time any note of the examination?

Witness.—No; but I made some note afterwards.

Mr. Cockburn.—When did that examination take place?

Witness.—On the 18th of February.

Mr. Cockburn.—What did the prisoner say in answer to the questions put to him?

Witness.—With the permission of the Court, I will state the substance of what he stated. In reply to the questions put to him, the prisoner said that he was persecuted by a system or crew at Glasgow, Edinburgh, Liverpool, London, and Boulogne. That this crew preceded or followed him wherever he went; that he had no peace of mind, and he was sure it would kill him; that it was a grinding of the mind. I asked him if he had availed himself of medical advice? He replied, that physicians could be of no service to him, for if he took a ton of drugs it would be of no service to him; that in Glasgow he observed people in the streets pointing at him, and speaking of him. They said that is the man, he is a murderer and the worst of characters. That everything was done to associate his name with the direst of crimes. He was tost like a cork on the sea, and that wherever he went, in town or country, on sea or shore, he was perpetually watched, and followed. At Edinburgh he saw a man on horseback watching him. That another person there nodded to him, and exclaimed, "That's he;" that he had applied to the authorities at Glasgow for protection and relief. His complaints had been sneered and scouted at by Sheriff Bell, who had it in his power to put a stop to the persecution, if he had liked. If he had had a pistol in his possession, he would have shot Sheriff Bell dead as he sat in the court-house; that Mr. Salmond, the procurator-fiscal, Mr. Sheriff Bell, Sheriff Alison, and Sir R. Peel might have put a stop to this system of persecution if they would; that on coming out of the court-house he had seen a man frowning at him, with a bundle of straw under his arm; that he knew well enough what was meant; that everything was done by signs; that he was represented to be under a delusion; that the straw denoted that he should lie upon straw in an asylum; that whilst on board the steamboat on his way from Glasgow to Liverpool, that he was watched, eyed, and examined closely by persons coming near him; that they had followed him to Boulogne on two occasions; they would never allow him to learn French, and wanted to murder him. He was afraid of going out after dark, for fear of assassination; that individuals were made to appear before him, like those he had seen at Glasgow. He mentioned having applied to Mr. A. Johnston, M.P. for Kilmarnock, for protection; Mr. Johnston had told him that he (the prisoner) was labouring under a delusion, but that he was sure he was not. That he had seen paragraphs in *The Times*



newspaper containing allusions which he was satisfied were directed at him; he had seen articles also in the *Glasgow Herald*, beastly and atrocious, insinuating things untrue and insufferable of him; that on one or two occasions something pernicious had been put into his food; that he had studied anatomy to obtain peace of mind, but he had not found it. That he imagined the person at whom he fired at Charing-cross to be one of the crew—a part of the system that was destroying his health.

Mr. Cockburn.—When you referred to the person whom he had fired at at Charing-cross, how did you put your question?

Witness.—I cannot recollect the exact question. I have no doubt I asked him who he thought the person was.

Mr. Cockburn.—State, Dr. Monro, as correctly as you can, what the prisoner said on this point.

Witness.—He observed that when he saw the person at Charing-cross at whom he fired, every feeling of suffering which he had endured for months and years rose up at once in his mind, and that he conceived that he should obtain peace by killing him.

Mr. Cockburn.—I believe all the medical men heard the questions put to him and the answers?

Witness.—Yes. Drs. Bright and Sutherland were present. I do not know if they saw the prisoner yesterday.

Mr. Cockburn.—Do you think that your knowledge of insanity enables you to judge between the conduct of a man who feigns a delusion and one who feels it?

Witness.—I do, certainly.

Mr. Cockburn.—Do you consider, Dr. Monro, that the delusions were real or assumed?

Witness.—I am quite satisfied that they were real. I have not a shadow of a doubt on the point.

Mr. Cockburn.—Supposing you had heard nothing of the examination which took place in Newgate, but only the evidence which has been adduced in court for the last two days, would you then say that the prisoner was labouring under a delusion?

Witness.—Most certainly. Dr. Monro said, in continuation, that the act with which he was charged, coupled with the history of his past life, left not the remotest doubt on his mind of the presence of insanity sufficient to deprive the prisoner of all self-control. He considered the act of the prisoner in killing Mr. Drummond to have been committed whilst under a delusion; that the act itself he looked upon as the crowning act of the whole matter—as the climax—as a carrying out of the pre-existing idea which had haunted him for years.

Mr. Cockburn.—Is it consistent with the pathology of insanity, that a partial delusion may exist, depriving the person of all self-control, whilst the other faculties may be sound?

Witness.—Certainly; monomania may exist with general sanity. He frequently knew a person insane upon one point exhibit great cleverness upon all others not immediately associated with his delusions. He had seen clever artists, arithmeticians, and architects, whose mind was disordered on one point. An insane person may commit an act similar to the one with which the prisoner is charged, and yet be aware of the consequences of such an act. The evidence which he had heard in court had not induced him to alter his opinion of the case. Lunatics often manifested a high degree of cleverness and ingenuity, and exhibited occasionally great cunning in escaping from the consequences of such acts. He saw a number of such cases every day.

Cross-examined by the Solicitor-General.—You have stated that Drs. Bright and Sutherland were present at the examination. Did they hear your examination of the prisoner?

Witness.—Yes, they were present and heard the examination. They were there on the part of the Crown. I asked all the questions.

The Solicitor-General.—Is it not the practice of the Crown to have medical gentlemen present at the examination of a person charged with such serious crimes as the prisoner is now accused of?

Witness.—I believe it is.

The Solicitor-General.—I believe you attended in the case of Oxford on the part of the Crown?

Witness.—I saw Oxford by myself—no other medical man was present.

The Solicitor-General.—Who were present when you examined M'Naughton.

Witness.—Sir A. Morrison, Mr. McClure, Drs. Bright and Sutherland. On the two last occasions on which I saw the prisoner, Mr. Hutchinson and Dr. Crawford were present at the request of the friends of the prisoner. They examined the prisoner almost exclusively on that occasion, and, in accordance with the usual practice, gentlemen in behalf of the Crown also attended.

The Solicitor-General.—I should like you to acquaint the Court with the exact form of



the question you put to him which had a reference to his firing the pistol at Mr. Drummond, at Charing-cross.

Witness.—I did not take any notes at the time.

The Solicitor-General.—Did you ask him if he knew whom he fired at?

Witness.—I am not quite certain. I think I asked the prisoner whom he fired at.

The Solicitor-General.—Did any one present ask the prisoner if he knew that it was Sir Robert Peel he shot at?

Witness.—I think he was asked the question more than once. He hesitated and paused, and at length said he was not sure whether it was Sir Robert Peel or not. This was asked in my presence.

The Solicitor-General.—Please to refer to your notes, and tell me whether he did not say that if he thought it was not Sir Robert Peel, he would not have fired at all?

Witness.—I have no notes to that effect. The notes that I have with me were made at home, and not at the time of the examination. (Dr. Monro's notes were handed to the Solicitor-General.)

The Solicitor-General, after examining the notes, observed—I see nothing here having a reference to Sir Robert Peel.

Witness.—You will find them towards the end.

The Solicitor-General.—Did he not say he would not have fired if he had known that it was not Sir Robert Peel?

Witness.—No, I think he did not. On this point he observed, that the person at whom he fired gave him as he passed a scowling look. At that moment all the feelings of months and years rushed into his mind, and he thought that he could only obtain peace by shooting him. He stated this in answer to my questions. I avoided all leading questions. There was much repetition in the questions put to him. The gentlemen from Scotland also examined him.

The Solicitor-General.—What was the form of the question which related to his firing at Sir R. Peel?

Witness.—I think the question was, "Did you know whom you were firing at?" In reply, he observed, "He was one of the crew that had been following him."

The Solicitor-General.—Do you mean to say, Dr. Monro, that you could satisfy yourself as to a person's state of mind by merely going into a cell and putting questions to him?

Witness.—In many instances I can; I will mention a case in point. A short time back I was called in to examine a man who was confined in Newgate under sentence of death. It was thought that he had feigned insanity. After an attentive examination, in conjunction with Mr. M'Murdo, I at once detected that his insanity was assumed, and such turned out to be the fact. I had the satisfaction afterwards of hearing that the man himself confessed prior to his execution that he had feigned insanity.

The Solicitor-General.—I wish to know whether your skill would enable you to ascertain the nature of the delusion under which the prisoner was labouring without seeing the depositions taken in his case?

Witness.—Certainly. I have formed my opinion from an examination of the prisoner personally, in conjunction with the depositions.

The Solicitor-General.—Is it not necessary to examine the bodily symptoms in these cases; for instance, the pulse?

Witness.—Yes, sometimes. I did not feel his pulse, neither did I lay much stress upon the appearance of his eye.

The Solicitor-General.—Do you always assume that the party tells you what is passing in his mind?

Witness.—Not always.

The Solicitor-General.—What do you mean by insanity? Do you consider a person labouring under a morbid delusion of unsound mind?

Witness.—I do.

The Solicitor-General.—Do you think insanity may exist without any morbid delusion?

Witness.—Yes; a person may be imbecile; but there is generally some morbid delusion; there are various shades of insanity. A person may be of unsound mind, and yet be able to manage the usual affairs of life.

The Solicitor-General.—May insanity exist with a moral perception of right and wrong?

Witness.—Yes; it is very common.

The Solicitor-General.—A person may have a delusion and know murder to be a crime?

Witness.—If there existed antecedent symptoms, I should consider the murder to be an overt act, the crowning piece of his insanity. But if he had stolen a 10*l.* note it would not have tallied with his delusion.

The Solicitor-General.—But suppose he had stolen the note from one of his persecutors? (Dr. Monro's answer was not heard, owing to the laughter which followed the Solicitor-General's observation.)



Dr. Monroe said a delusion like M'Naughton's would carry him quite away. He thought a person may be of unsound mind, labour under a morbid delusion, and yet know right from wrong. In many respects this was the case.

The Solicitor-General.—Have you heard of what is called moral insanity? Have you read the works of M. Marc?

Witness.—I understand what monomania means. It is attended by an irresistible propensity to thief or burn, without being the result of particular motives.

Re-examined by Mr. Cockburn.—You said, Dr. Monroe, that a person might labour under a particular form of insanity without having his moral perceptions deranged. For illustration—a man may fancy his legs made of glass. There is nothing in that which could affect his moral feelings?

Witness.—Certainly not.

Mr. Cockburn.—You have not the slightest doubt that M'Naughton's moral perceptions were impaired?

Witness.—No.

Sir A. Morrison, M.D., examined by Mr. Clarkson.—I believe, Dr. Morrison, that you were one of the gentlemen who saw the prisoner in conjunction with Drs. Monroe, Sutherland, and Bright?

Witness.—I did.

Mr. Clarkson.—You have been in Court during the whole of the day?

Witness.—I have.

Mr. Clarkson.—Were you not present during the whole of the examination of the prisoner in Newgate?

Witness.—I was.

Mr. Clarkson.—After that examination did you arrive at any conclusion as to the prisoner's state of mind?

Witness.—I did.

Mr. Clarkson.—Please to state to the Court what your impression was.

Witness.—That M'Naughton was insane.

Mr. Clarkson.—After having heard the evidence adduced that day in Court, has your opinion undergone any alteration?

Witness.—I am still of the same opinion, that the prisoner was insane at the time he committed the act with which he is charged.

Mr. Clarkson.—You have heard, I believe, all the evidence of Dr. Monroe?

Witness.—I have.

Mr. Clarkson.—Do you concur with him in the view which he has taken of this case?

Witness.—I do.

Mr. Clarkson.—The prisoner's morbid delusions consisted in his fancying himself subject to a system of persecutions.

Witness.—Yes; that was the peculiar cause of his insanity.

Mr. Clarkson.—What effect had this delusion upon his mind?

Witness.—It deprived the prisoner of all restraint or control over his actions.

Mr. Clarkson.—Do you speak with any doubt upon the point?

Witness.—Not the slightest.

Mr. Clarkson.—Has your opinion with regard to M'Naughton's insanity, undergone any alteration in consequence of having heard the evidence adduced in Court this day?

Witness.—Not the slightest.

Mr. Clarkson.—You have had, I believe, considerable experience in these cases?

Witness.—I have devoted my attention for nearly half a century to the subject of insanity.

Cross-examined by the Solicitor-General.—Do you think the prisoner of unsound mind?

Witness.—I do.

The Solicitor-General.—That his delusion consisted in his fancying himself persecuted by a number of persons?

Witness.—Yes.

The Solicitor-General.—Had you formed that opinion in consequence of reading the depositions?

Witness.—It is the result of reading the depositions and examining the prisoner. I had, however, arrived at a conclusion of his insanity before I read the depositions.

Mr. William M'Clure, examined by Mr. Bodkin.—I believe you are a surgeon, living in Harley-street.

Witness.—I am.

Mr. Bodkin.—Have you been in practice for many years?

Witness.—For the period of thirty years.

Mr. Bodkin.—I believe you saw the prisoner on four different occasions?

Witness.—Yes; I saw him with Drs. Monroe, Sutherland, and Bright.



Mr. Bodkin.—Did you take part in the examination?

Witness.—I did.

Mr. Bodkin.—Do you consider the delusions under which M'Naughton is labouring, to be real or feigned?

Witness.—He thought they were real. He had no doubt on the point.

Mr. Bodkin.—You consider the prisoner is suffering under a delusion?

Witness.—Yes.

Mr. Bodkin.—Looking at the history of the case, the evidence adduced, as well as the melancholy termination, what opinion do you entertain of the state of the prisoner's mind?

Witness.—I consider, when he fired at Mr. Dummond, at Charing-cross, he (the prisoner) was suffering from an hallucination which deprived him of all ordinary restraint.

Mr. Bodkin.—Do you consider that his moral liberty was destroyed?

Witness.—I do.

Cross-examined by the Solicitor-General.—Did you ask the prisoner if he knew whom it was that he fired at?

Witness.—I did not.

The Solicitor-General.—Did he not say, that if he had not thought it was Sir Robert Peel at whom he fired he would not have shot Mr. Drummond?

Witness.—He did not say so. I was present at all the meetings.

Dr. W. Hutchenson, examined by Mr. Cockburn.—You are, I believe, physician to the Royal Lunatic Asylum at Glasgow.

Witness.—I am.

Mr. Cockburn.—Have you had much experience in cases of insanity?

Witness.—I have.

Mr. Cockburn.—When did you see M'Naughton?

Witness.—I visited him whilst confined in Newgate.

Mr. Cockburn.—By yourself?

Witness.—No; in conjunction with the other medical men.

Mr. Cockburn.—What was the prisoner's state of mind?

Witness.—I found him labouring under a morbid delusion.

Mr. Cockburn.—Were the delusions feigned or real?

Witness.—They were real.

Mr. Cockburn.—Were these delusions sufficient to account for the act with which the prisoner is charged?

Witness.—They were.

Mr. Cockburn.—What effect had they upon his mind?

Witness.—They deprived the prisoner of all control over his actions.

Mr. Cockburn.—Do you think that he had lost all self-control at the moment he fired at Mr. Drummond?

Witness.—I do. I consider the act flowed immediately from the delusion.

Cross-examined by the Solicitor-General.—Do you mean to say that the delusion prevented the prisoner from exercising any control over his actions?

Witness.—I said that the act was the consequence of the delusion, which was irresistible. The delusion was so strong that nothing but a physical impediment could have prevented him from committing the act. He might have done the same thing in Glasgow if the disease of the mind had reached the same point.

Solicitor-General.—From what period do you date his insanity?

Witness.—From the time when M'Naughton called upon the commissioner of police, Mr. Wilson, for protection.

Solicitor-General.—Was he insane at that time?

Witness.—Yes.

Solicitor-General.—When was that?

Witness.—Eighteen months back.

Mr. Cockburn.—Supposing at that time the same morbid notion had seized him, do you think he would have committed a similar act?

Witness.—I do not think he could have resisted any impulse springing from the morbid delusions under which he suffered.

The Solicitor-General.—Divesting your mind of all the evidence you have heard, and all the facts connected with the case, and forming your judgment on the examination to which you subjected the prisoner, what would be your opinion of his state of mind?

Witness.—I should have no hesitation in certifying that he was a dangerous lunatic.

Lord Chief Justice Tindal.—Do you date his insanity from the time he called upon Mr. Wilson, the commissioner of police?

Witness.—Yes, my lord.



The Solicitor-General.—Nothing which you have heard during the last two days has altered your mind on the subject?

Witness.—My opinion of the prisoner's insanity is the same.

Re-examined by Mr. Cockburn.—When patients exhibit symptoms similar to those which the prisoner manifested, they are generally, I believe, placed under restraint?

Witness.—Yes. Such symptoms often gradually develop themselves, whereas many have these delusions for some time, and are harmless, and then they may suddenly impel them to the commission of crime. I have known cases of that kind.

Dr. P. J. Crawford, examined by Mr. Bodkin.—Dr. Crawford, you are a lecturer on medical jurisprudence at the Andersonian Institution of Glasgow?

Witness.—I am.

Mr. Bodkin.—You saw M'Naughton during his confinement in Newgate?

Witness.—I accompanied the medical men last Thursday to Newgate for that purpose.

Mr. Bodkin.—Did you assist in the examination?

Witness.—I did.

Mr. Bodkin.—Have you heard the examination of Dr. Hutchenson?

Witness.—I have.

Mr. Bodkin.—And what is your opinion of his evidence?

Witness.—I concur in all he has said of M'Naughton's insanity.

Mr. Macmurdo, surgeon, sworn, and examined by Mr. Cockburn.—Mr. Macmurdo, you are the surgeon of Newgate.

Witness.—Yes.

Mr. Cockburn.—I believe you were summoned on the other side, but not called?

Witness.—Yes.

Mr. Cockburn.—Has your opinion been reduced to writing?

Witness.—It has not.

Mr. Cockburn.—I believe you have been in the habit of regularly visiting the prisoner since his confinement in Newgate?

Witness.—Yes, daily.

Mr. Cockburn.—Have you examined his state of mind.

Witness.—I have taken pains to ascertain his state of mind.

Mr. Cockburn.—What is your opinion of his soundness or unsoundness of mind?

Witness.—I consider him insane.

Mr. Cockburn.—Do you think he was so when he shot Mr. Drummond?

Witness.—I do.

Mr. Cockburn.—I believe you have given that opinion to the parties engaged in the prosecution?

Witness.—I have.

Cross-examined by the Solicitor-General.—Do you believe that he was insane at the moment he committed the offence.

Witness.—Yes; I do. He (the prisoner) believed that he was acting in self-defence and correctly. That opinion is the result of several conversations.

Mr. Aston Key, surgeon, sworn, and examined by Mr. Clarkson.—I understand you are surgeon of Guy's Hospital.

Witness.—I am.

Mr. Clarkson.—You have not seen the prisoner since his confinement in Newgate?

Witness.—I have not.

Mr. Clarkson.—When did you first see him?

Witness.—I saw him for the first time yesterday, in court.

Mr. Clarkson.—Have you been in court during the whole of the trial?

Witness.—I have.

Mr. Clarkson.—Judging from what you have heard, what is your opinion of his state of mind?

Witness.—I believe that when M'Naughton shot Mr. Drummond he was labouring under a delusion.

Mr. Clarkson.—Do you consider that he was responsible for his actions?

Witness.—I think he was exempt from all responsibility, and had no control over his actions.

Cross-examined by the Solicitor-General.—Your attention, I understand, has not been particularly directed to the subject of insanity?

Witness.—It has not, but I have been engaged in judicial inquiries.

The Solicitor-General.—Do you not think a person may be under the influence of a morbid delusion, and yet be able to conduct the ordinary affairs of life?

Witness.—I do; the delusion which impelled M'Naughton was one which he could not control?

The Solicitor-General.—If you could discover the presence of other motives, would it not be necessary to give the case closer consideration?



Witness.—My judgment is formed mainly, but not entirely, on the absence of other motives. If such motives could have been established, I should have received the evidence with more suspicion.

Re-examined by Mr. Cockburn.—Were the act connected with the delusion, the person would be placed beyond all control?

Witness.—Certainly.

Mr. Cockburn.—You said, in answer to a question put to you by my learned friend the Solicitor-General, that a person might labour under a delusion, yet be competent to perform all the ordinary duties of life with correctness?

Witness.—That is my opinion.

Mr. Forbes Winslow, surgeon, sworn and examined by Mr. Clarkson.—I believe, Mr. Winslow, that you are a surgeon, residing in Guildford-street?

Witness.—I am.

Mr. Clarkson.—You are the author of the *Plea of Insanity in Criminal Cases*, and other works on the subject of insanity?

Witness.—Yes.

Mr. Clarkson.—I think, Mr. Winslow, that you have been in court during the whole of the trial, and have not been summoned on either side, and have heard all the evidence on the part of the Crown and for the defence?

Witness.—I have.

Mr. Clarkson.—Judging from the evidence which you have heard, what is your opinion as to the prisoner's state of mind?

Witness.—I have not the slightest hesitation in saying that he is insane, and that he committed the offence in question whilst afflicted with a delusion, under which he appears to have been labouring for a considerable length of time.

Lord Chief Justice Tindal.—Mr. Winslow, will you repeat what you have just stated?

Witness again expressed an unqualified opinion of the prisoner's insanity.

Dr. B. Philips, surgeon and lecturer at the Westminster Hospital, was then called, but—

The CHIEF JUSTICE TINDAL interposed, and said,—Mr. Solicitor-General, are you prepared, on the part of the Crown, with any evidence to combat this testimony of the medical witnesses who now have been examined? because we think, if you have not, we must be under the necessity of stopping the case. Is there any medical evidence on the other side?

The SOLICITOR-GENERAL.—No, my Lord.

The CHIEF JUSTICE TINDAL.—We feel the evidence, especially that of the last two medical gentlemen who have been examined, and who are strangers to both sides, and only observers of the case, to be very strong, and sufficient to induce my learned brother and myself to stop the case.

The SOLICITOR-GENERAL.—Gentlemen of the Jury, after the intimation I have received from the Bench, I feel that I should not be properly discharging my duty to the Crown and to the public, if I asked you to give your verdict in this case against the prisoner. The Lord Chief Justice has intimated to me the very strong opinion entertained by himself and the other learned judges who have presided here to day, that the evidence on the part of the defendant, and more particularly the evidence of the medical witnesses, is sufficient to shew that this unfortunate man, at the time he committed the act, was labouring under insanity; and, of course, if he were so, he would be entitled to his acquittal. I was anxious, however, to say, on the part of the Crown, that they have had no object whatever but the attainment of public justice; and I believe I am right in saying that, on the part of the prosecution, every facility has been given to the defence. There is no wish, there can be no wish, on the part of the public prosecutor, but that the ends of public justice shall be attained; and, certainly, when in the streets of this metropolis a crime of this sort was committed, it was incumbent on those who have the care of the public peace and safety to have the case properly investigated. The safety of the lives and persons of all of us requires that there should be such an investigation. On the part of the Crown, I felt it my duty



to lay before you the evidence we possessed of the conduct of this young man. I cannot agree with the observations my learned friend has made on the doctrines and authorities that have been laid down in this case, because I think those doctrines and authorities are correct law; our object being to ascertain whether at the time the prisoner committed the crime he was at that time to be regarded as a responsible agent, or whether all control of himself was taken away? The Lord Chief Justice I understand to mean to submit that question to you. I cannot press for a verdict against the prisoner. The learned judge will submit the case to you, and then it will be for you to come to your decision.

The CHIEF JUSTICE TINDAL.—Gentlemen of the Jury, in this important case, which has excited very great anxiety during the two preceding days, the point I shall have to submit to you is, whether on the whole of the evidence you have heard, you are satisfied that at the time the act was committed, for the commission of which the prisoner now stands charged, he had that competent use of his understanding as that he knew that he was doing, by the very act itself, a wicked and a wrong thing? If he was not sensible at the time he committed that act, that it was a violation of the law of God or of man, undoubtedly he was not responsible for that act, or liable to any punishment whatever flowing from that act. Gentlemen, that is the precise point which I shall feel it my duty to leave to you. I have undoubtedly been very much struck, and so have my learned brethren, by the evidence we have heard during the evening, from the medical persons who have been examined as to the state of the mind of the unhappy prisoner—for unhappy I must call him in reference to his state of mind. Now, gentlemen, I can go through the whole of the evidence, and particularly call back your attention to that part of it to which I at first adverted, but I cannot help remarking, in common with my learned brethren, that the whole of the medical evidence is on one side, and that there is no part of it which leaves any doubt on the mind. It seems, almost unnecessary that I should go through the evidence. I am however, in your hands; but if on balancing the evidence in your minds, you think the prisoner capable of distinguishing between right and wrong, then he was a responsible agent and liable to all the penalties the law imposes. If not so, and if in your judgment the subject should appear involved in very great difficulty, then you will probably not take upon yourselves to find the prisoner guilty. If that is your opinion, then you will acquit the prisoner. If you think you ought to hear the evidence more fully, in that case I will state it to you, and leave the case in your hands. Probably, however, sufficient has now been laid before you, and you will say whether you want any further information.

The Foreman of the Jury.—We require no more, my Lord.

The CHIEF JUSTICE TINDAL.—If you find the prisoner not guilty, say on the ground of insanity, in which case proper care will be taken of him.

The Foreman.—We find the prisoner NOT GUILTY, on the ground of insanity.

The Clerk of the Arraignment, by order of the Court, directed the gaoler to keep the prisoner in safe custody till her Majesty's pleasure be known.

The prisoner was then removed, and the Jury were discharged.

On Wednesday the 15th of March, the prisoner was removed by Mr. Cope, the Governor of Newgate, to Bethlehem Hospital, St. George's Fields, under an order from the Right Hon. Sir James Graham, her Majesty's Secretary of State for the Home Department.



## APPENDIX.

## CENTRAL CRIMINAL COURT, FEBRUARY 2.

(BEFORE LORD ABINGER AND MR. JUSTICE MAULE.)

DANIEL M'NAUGHTON was placed at the bar, charged with the wilful murder of Mr. Edward Drummond.

The Attorney-General, Mr. Adolphus, and Mr. Waddington, appeared on behalf of the Crown; and Mr. Clarkson for the prisoner.

Mr. Clarkson said he had been instructed to make an application to their lordships on behalf of the prisoner at the bar, but before he did so, he was desirous of ascertaining their lordships' opinion whether, before he did so, the prisoner ought to be called upon to plead.

Lord Abinger said, that would entirely depend upon the nature of the application. If it was with respect to the incapacity of the prisoner to plead, in consequence of the state of his mind, then the application must be made first; and a jury would be empanelled to try whether he was in a fit state of mind to plead or not.

Mr. Clarkson said he was not instructed to make any application of such a nature.

Lord Abinger then said that the prisoner ought to be at once called upon to plead.

Mr. Straight, the deputy-clerk of arraigns, then read the indictment, which alleged that the prisoner, "on the 20th of January, at the parish of St. Martin-in-the-Fields, did feloniously assault Mr. Edward Drummond with a certain pistol, which he then and there held in his right hand, loaded with gunpowder and a leaden bullet, and which he, of his malice aforethought, discharged at and against the said Edward Drummond, thereby giving him a certain mortal wound, in and upon the left side of the back of the said Edward Drummond, a little below the blade-bone of his left shoulder, of the breadth of half an inch, and of the depth of twelve inches, and of which wound the said Edward Drummond did languish until the 25th of January, and languishing did live, on which 25th of January he, of the said mortal wounds so given in manner aforesaid by him, the said Daniel M'Naughton, died; and that he did wilfully kill and murder the said Edward Drummond."

Mr. Straight.—How say you, prisoner, are you guilty, or not guilty?

The prisoner, who kept his eyes steadily fixed towards the bench, made no reply to the question.

Mr. Straight.—Prisoner, you must answer the question, whether you are guilty or not?

The prisoner, after again hesitating for some time, said, "I was driven to desperation by persecution."

Lord Abinger.—Will you answer the question? You must say either guilty, or not guilty.

Prisoner, after another pause, "I am guilty of firing."

Lord Abinger.—By that, do you mean to say you are not guilty of the remainder of the charge—that is, of intending to murder Mr. Drummond?

Prisoner.—Yes.

Lord Abinger.—That certainly amounts to a plea of "Not guilty;" therefore, such a plea must be recorded.

The prisoner was then charged upon the coroner's inquisition with the like offence.

To the inquisition also, a plea of "Not guilty" was entered.



Mr. Clarkson then said, that he had been instructed to apply to their lordships on behalf of the prisoner, to have the trial postponed until the next session; and he was instructed further to apply to have a certain paper, being a receipt for money, which had been taken from the prisoner at the time he was apprehended, restored to him; that receipt was for the sum of 750*l.*, which had been lodged by the prisoner in the Glasgow and Shipping Bank. Mr. Humphries had been instructed to defend the prisoner only on Monday last, and he held in his hand an affidavit made by that gentleman, which would fully explain the grounds of his application. He must, however, remind the court that the prisoner had originally been remanded till the 6th instant, in order that the trial might not take place until the next session; but in consequence of the lamented death of the deceased, it was considered necessary to have the prisoner immediately finally examined, and at once committed to take his trial.

The affidavit referred to was then read as follows:—

“THE QUEEN V. DANIEL M'NAUGHTON, INDICTED FOR WILFUL MURDER.

“William Corne Humphries, of No. 119, Newgate-street, in the city of London, in partnership with George Perceval, Solicitor, retained to defend the above-named prisoner, maketh oath and saith, that the above-named prisoner was committed upon the above charge to her Majesty's gaol of Newgate, on Saturday, the 28th of January last, and that this deponent was, in the afternoon of Monday, the 30th day of January last, instructed for the first time to act as solicitor in his defence. That this deponent forthwith had an interview with the said prisoner, and found in his possession a copy of the depositions taken against him before the committing magistrate at Bow-street, and a copy also of certain other depositions which appears to have been taken at Glasgow, in Scotland, on oath, in the presence of Archibald Alison, Esq., advocate-sheriff of Lanarkshire, on the 24th of January last, which last-mentioned depositions set forth various acts and circumstances having reference to the state of mind of the prisoner. That this deponent was informed, that the said two sets of depositions were furnished to the said prisoner by some person in authority at the police-court, Bow-street, at the time when the said prisoner was committed on last Saturday as aforesaid. And this deponent further saith, that from his communication with the said prisoner, and from a letter which this deponent has seen, appearing to be written from and bearing the post mark of Glasgow, respecting the prisoner, and also from the perusal of the depositions so respectively taken at Bow-street, and before the advocate-sheriff as aforesaid, this deponent verily believes that it will be necessary for the full and fair defence of the said prisoner, that a number of witnesses should be procured from Scotland, and that inquiry should be made for the purpose of procuring, if possible, certain other witnesses from France, where the said prisoner was some time since residing. And this deponent further saith, that he has been informed and believes that a letter has been sent to Scotland, with directions to send some witnesses from there, who are expected to give important evidence in favour of the said prisoner, upon the trial of the said indictment, but from the shortness of the time since the prisoner's committal, this deponent is unable to say whether or not the said witnesses so sent for will arrive during the present session; and if the said last-mentioned witnesses should so arrive, this deponent verily believes that it would not even then be safe for the said prisoner to take his trial until further and more extensive inquiry can be made respecting him, extending, as above said, to the kingdom of France. And this deponent further saith, that very considerable outlay will necessarily be incurred in travelling and other necessary expenses, before the defence of the said prisoner can be so properly prepared as to lay the same in a proper and satisfactory way before the jury who is to try the said prisoner, as this deponent has been informed, and as the deposition of James Silver, taken at Bow-street, states, he has had taken from him, by the said James Silver, the following notes, security, and money—viz., two 5*l.* Bank of England notes, four sovereigns, four half-crowns, one shilling, one fourpenny piece, one penny piece, and a receipt for 750*l.* from the Glasgow and Shipping Bank. And this deponent verily believes that the said prisoner is now personally without funds, and that if the said order for 750*l.* on the Glasgow Bank shall be restored to him it will take a very considerable time to transmit the said order and receive in return the cash in payment for the same, in due course of post. And this deponent further saith, that after his interview with the said prisoner on Monday last, this deponent caused to be written a letter to Mr. George Maule, the solicitor for the Treasury, and who conducts this prosecution, of which letter the paper writing hereto annexed, marked ‘A,’ is a true copy, and which letter was sent by this deponent to the said Mr. Maule early on Tuesday morning, and to which letter this deponent received on the last named day the answer hereto annexed, marked ‘B.’ And this deponent lastly saith, that he verily believes that he cannot fairly and properly be prepared so thoroughly to defend the prisoner at the present session as he shall be at the session next coming, when this deponent verily believes, from the information aforesaid,



that witnesses will be procured and produced from Scotland, and probably from France, who will give evidence most material and necessary for the defence of the said prisoner, and without which testimony it will be unsafe for the said prisoner to take his trial.

"W. C. HUMPHRIES.

"Sworn in court, at the Central Criminal Court, Justice-hall,  
Old Bailey, London, this 2nd day of February, 1843."

"And this deponent, William Corne Humphries, further saith, that from perusal of the said copies of depositions taken in Scotland as aforesaid, and from information furnished to this deponent, this deponent verily believes he shall by the next session be in a condition to lay before the Court and jury material evidence touching the unsoundness of mind of the said prisoner before and near to the time of the commission of the act with which he stands charged.

"W. C. HUMPHRIES.

"Re-sworn at the Central Criminal Court  
aforesaid, 2nd February, 1843."

(Letter marked "A.")

"119, Newgate-street, Jan. 31.

"Sir,—Yesterday afternoon, for the first time, we were consulted, upon the case of the prisoner Daniel M'Naughton, and instructed to defend. Upon seeing the prisoner it was found, that on his committal on Saturday last he was furnished, at Bow-street Police-court, with copies of depositions taken there upon that day and on some previous examinations, and he was also furnished at the same time with copies of depositions of witnesses, which appear to have been taken on oath, respecting him at Glasgow, on the 24th inst.; and we find that the prisoner's papers have been taken from him, and amongst them an accountable receipt for £750, deposited by him in one of the banks at Glasgow.

"From the matter contained in the voluminous depositions taken at Bow-street, as well as those taken at Glasgow, we think it utterly impossible to defend the prisoner if he be tried at the present session. The very recent committal, the mass of evidence to be considered, and the detention of a security on the Glasgow Bank, are all reasons which we respectfully submit may be fairly urged for a postponement; in addition to which, we are instructed, that if time be allowed to make inquiry, evidence may, in all probability be procured from Scotland, and perhaps, from France, which may be most important to the interests of the prisoner, and we should hope, in the result, satisfactory to the public. These inquiries, however, will require both time and funds, and on behalf of the prisoner we respectfully request that you will be pleased to consent to a postponement of his trial until the next session, and that you will direct that the order for money on the Glasgow Bank may be given to the prisoner's appointed agent; and that we may have inspection of the papers taken from him, and a restoration of such of them as you may deem unnecessary for the purposes of the prosecution.

"We shall make application to the Central Criminal Court immediately on the indictment being returned; and we thus take leave to address you, in order that you may have the earliest possible notice of such intended application. Trusting that the same will be consented to,

"We have the honour to be, &c.,

"HUMPHRIES AND PERCEVAL.

"G. Maule, Esq., Solicitor, Treasury."

(Letter marked "B.")

"Treasury, Jan. 31.

"Gentlemen,—I have to acknowledge the receipt of your letter of this date, and in answer thereto beg leave to acquaint you, that no direct consent can be given, as requested by you; but, on the part of the prosecution, it will be left to the Court to decide, upon the materials which may be produced on the part of the prisoner by affidavit. The accountable receipt and the papers taken from the prisoner cannot be delivered up, but there will be no objection to your inspecting them; and facility will be afforded for obtaining money for the necessary expenses of the defence upon the accountable receipt.

"It is proposed to prefer the bill to-morrow; and, if it should be found, I shall be obliged by your acquainting me on what morning you will make your intended application to the Court, in order that the Attorney-General, or some counsel on the part of the Crown, may be present.

"I am, &c.,

"Messrs. Humphries and Perceval,

"G. MAULE.

"119, Newgate-street."

Mr. Clarkson added, that as the receipt he had alluded to could not by any possibility



have any connexion with the charge against the prisoner, he hoped there would be no objection on the part of the prosecution to give it up.

Lord Abinger asked the Attorney-General whether he offered any opposition to the application?

The Attorney-General said, it would certainly have been more satisfactory if some of the depositions which had been returned from Scotland had been annexed to the affidavit, as it was only by the last part of it that it appeared any attempt would be made to shew that the prisoner was not of sound mind; at the same time, he felt bound in justice to say, that he had seen the depositions alluded to, and they certainly contained matter which it would be very proper to lay before the jury who would have to try the prisoner. He would also add, that those who conducted the prosecution were anxious that it should be conducted with the utmost fairness, both as regarded the prisoner and the public, whose interests were deeply involved in the result of the investigation.

Lord Abinger said, that after what had been stated by the learned Attorney-General, who had read the depositions referred, and who considered they contained facts material to be proved in behalf of the prisoner, the Court could not resist the application for the postponement of the trial; the depositions alluded to were certainly important, and without them he should not have considered the affidavit sufficient.

Mr. Clarkson again called his Lordship's attention to the other part of his application—viz., the restoration of the bank receipt and the money taken from the prison. It was essentially necessary that he should have the means of properly getting up his defence, and as there was not the slightest pretence for saying either the one or the other had anything to do with the charge, he hoped there would be no objection to the property being handed over to the prisoner's solicitors.

Lord Abinger said, it appeared that the prosecutor did not object to hand over to the prisoner a sufficient sum to meet the necessary expenses of getting up his defence; beyond that he thought he could not make any order.

The Attorney-General said that application had certainly been made to Mr. Maule for the restoration of the papers taken from the prisoner, but as they were considered important for the ends of the prosecution, an answer was sent back that they could not be returned; but at the same time an intimation was given that any reasonable amount would be handed over to the prisoner, upon the security of the receipt for the purpose of preparing his defence. With respect to the receipt itself, he certainly could not consent to its being given up, as it might become a very important document in behalf of the prosecution.

Lord Abinger said the trial would be allowed to stand over, upon the understanding that sufficient funds should be supplied to the prisoner for the purpose of preparing his defence.

The Attorney-General begged to inform the Court that the deposition alluded to had not been made by order of, or under the authority of, the Government, but by a public officer in the discharge of his duty, and upon his own responsibility.

The prisoner was then removed from the bar.



